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Courtroom procedure : instructions and f



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# COURTROOM PROCEDURE

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Courtroom procedure: instructions  
and forms for the guidance of sheriffs  
and clerks of the court in  
performance of their duties in the  
courtroom, in the Supreme Court or  
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# **COURTROOM PROCEDURE**

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**Instructions and Forms for the Guidance of  
SHERIFFS AND CLERKS OF THE COURT**  
in performance of their  
**DUTIES IN THE COURTROOM**  
In the Supreme, County or District Court

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**REVISED**

**1 9 7 9**







## **PREFACE**

The Ministry is most appreciative of the efforts of all those persons who contributed to the original publication of this manual in 1965, and to those who revised and edited this second edition.

As in the original publication, the cooperation of the judiciary is particularly gratifying and should imbue the sheriffs and clerks of the court with confidence in the accuracy of the courtroom procedures set out.

Greater uniformity of procedure has been achieved in all of the courts and court officials will continue to follow the procedures set out herein, subject, of course, to specific direction of a presiding judge.

A court official who is advised by a judge of a procedural inaccuracy in this manual should notify the director accordingly. Full consideration will be given to such matters and the appropriate amendments made.

It is expected that all court officials will follow this manual in its every detail, ensuring procedural uniformity in the courts of Ontario.

B. W. McLoughlin  
Assistant Deputy Attorney General  
and Director of Courts Administration



## ACKNOWLEDGEMENT

This book on Courtroom procedure was originally prepared by Mr. Gordon F. Beddis, formerly Registrar of the Supreme Court of Ontario at Toronto.

In Mr. Beddis' Acknowledgement in the original book, he paid tribute to the learned Judges of both the High Court and County Courts whose assistance he sought and received. Mr. Beddis gave credit to Mr. A. A. Russell, Q.C., former Assistant Deputy Attorney-General, for the original idea and for his support and encouragement.

The original book was published January 4th, 1965, due, however, to the many changes that have taken place in the intervening years, it is necessary that it should now be revised and updated.

It has been an honour and a privilege for the undersigned to make the necessary revisions. In doing so the advice and assistance of Mr. E. F. Conover, Registrar of the Supreme Court of Ontario at Toronto has been most valuable. The author's task would have been much more formidable indeed without Mr. Conover's help. The advice and suggestions of the Co-ordinators has also been most helpful.

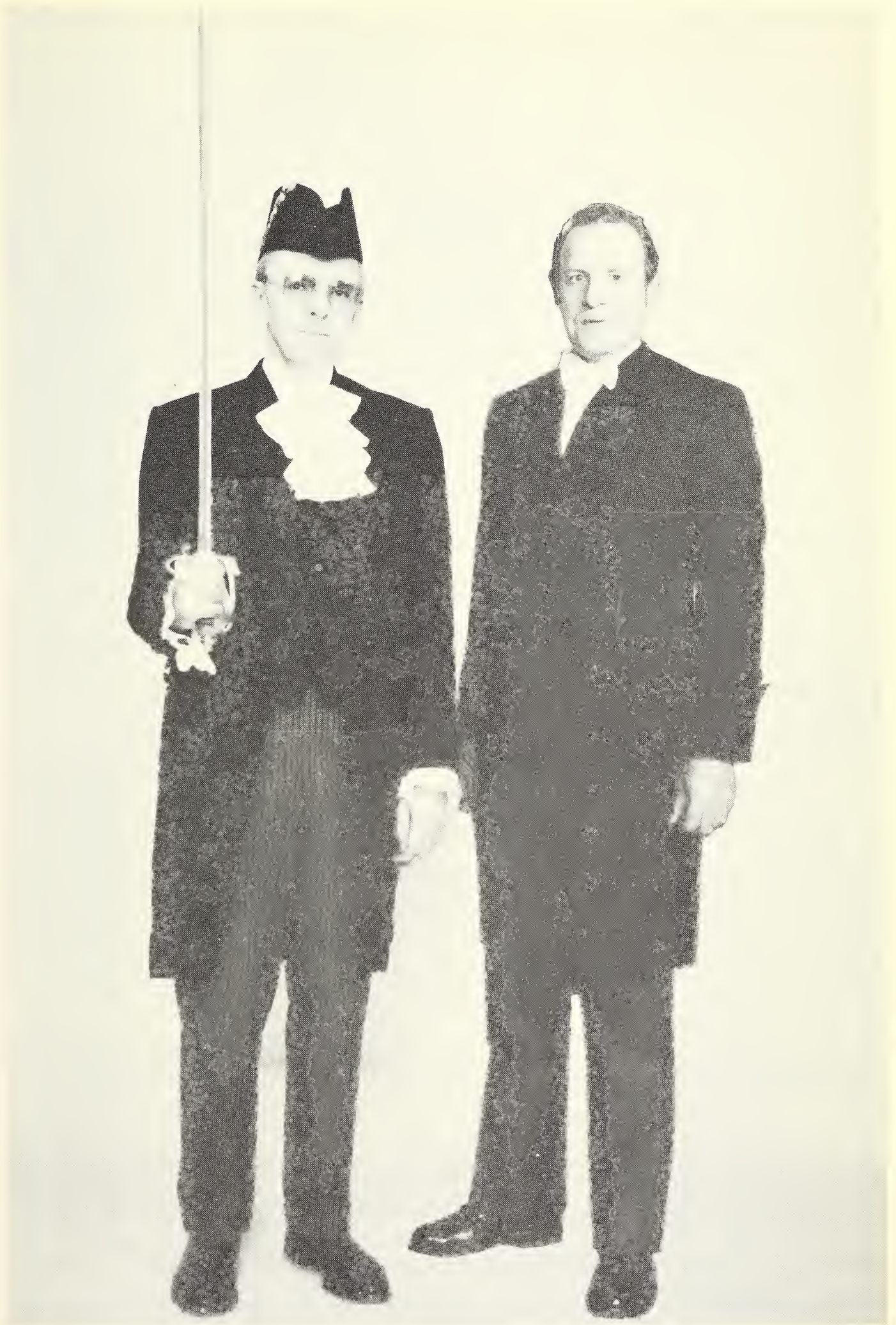
The Chief Justice of the High Court, The Honourable G. T. Evans and the Chief Judge of the County Courts, His Honour W. E. C. Colter, kindly consented to do the final review and their suggestions were, of course, given effect to in the book.

The complete support and encouragement of Mr. G. W. S. Scott, former Assistant Deputy Attorney-General, who suggested such revision and that of Mr. Brian McLoughlin, Director of Courts Administration, and Mr. R. W. Schurman, Director Supreme and County Courts, is deeply appreciated.

To all of those mentioned or referred to above the gratitude of the undersigned is hereby acknowledged.

A. G. B. Campbell  
Local Registrar, S.C.O.  
at Orangeville





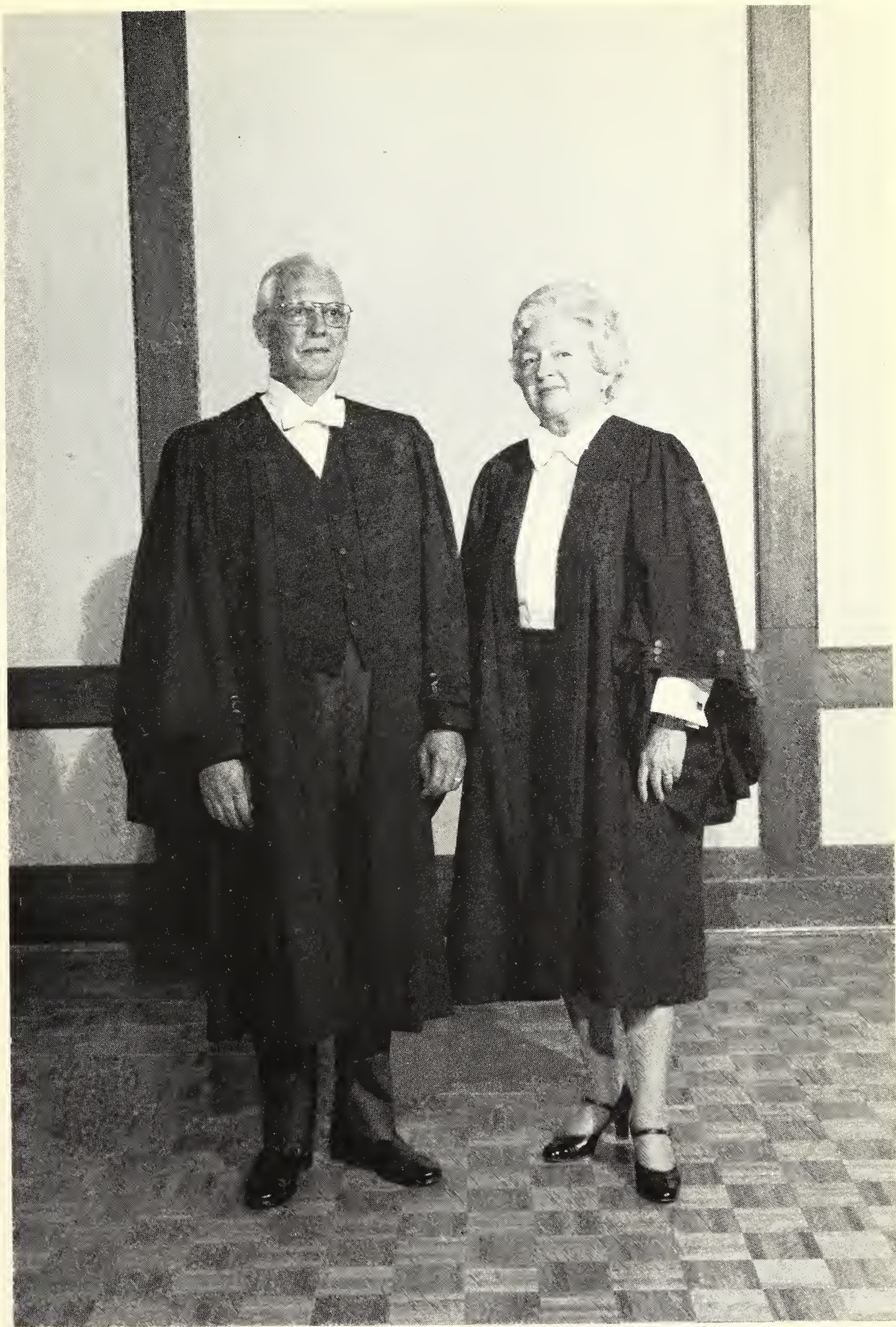
**SHERIFF AND HIS DEPUTY**





**LADY SHERIFF**





**COURT CLERKS**





**COURT CONSTABLES**



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# INSTRUCTIONS TO COURT OFFICIALS

## Introduction

While the conduct of the formal proceedings in a courtroom is the responsibility of the presiding judge, only with the complete cooperation of the clerk and the sheriff with the judge and with each other can this be accomplished in an efficient and dignified manner. The degree of cooperation necessary can only be attained if the clerk and the sheriff are fully aware of their own and each other's duties and responsibilities. To assist them in carrying out their task properly and uniformly is the purpose of this book.

All clerks and sheriffs shall familiarize themselves with this book in its entirety. Every effort has been made to include all the normal situations that may arise during the sitting of a court. It must be appreciated that there are unusual situations that cannot be foreseen. The information in this book should be sufficient, however, to form a basis from which clerks and sheriffs will be able to determine the procedure necessary to cope with such situations.

## Order of the General Formal Courtroom Procedure

At the opening of the court or the resumption of the court to take the verdict of a jury or after a recess or luncheon adjournment the proceedings shall take place in the following order with the references to jury and accused being omitted, obviously in a court hearing civil cases without a jury:

**Opening of Court**

- the sheriff shall call “ORDER” as he enters the courtroom in front of the judge;
- all persons in the courtroom, including the clerk, shall stand and face the bench;
- the judge, just prior to being seated, will likely bow to the body of the court and, if so, all present shall return the bow;
- the judge will then take his (or her) seat;



## Notes

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- the clerk shall then proclaim the court open or that it is resumed, as the case may be;
- all present shall take their seats;
- the constables shall bring in the accused and place him in the prisoner's dock; and
- the constables shall then bring in the jury to the jury box.

At the close of the court or at a recess or adjournment for luncheon the order shall be as follows: **Closing of Court**

- the constables shall take the jury out of the courtroom;
- the constables shall remove the accused from the courtroom;
- the sheriff shall call "ORDER";
- all persons other than the judge shall stand and other than the clerk face the bench;
- the clerk shall then make the closing, recess or luncheon adjournment proclamation, as the case may be; and
- the judge will then rise and leave the courtroom preceded by the sheriff.

## The Sheriff

It is most important that the sheriff be properly dressed. He shall wear black shoes and dark grey striped trousers of conservative pattern. A black morning coat with stand collar, six rows of barred braid across both sides of the front, gauntlet pointed cuffs with braid, and buttons and pocket flaps to match, shall be worn with a regular six-button waistcoat of the same material as the morning coat. His jabot, to be worn with a wing collar, shall be of fine quality lace and must be worn "flowing" and not under the waistcoat. A deputy shall dress in the same manner as the sheriff except that a white bow tie shall replace the jabot and the barred braid on his morning coat shall be across only the left side of the front of his coat. **Dress**

The sheriff is responsible for maintaining order in and about the courtroom. During the course of a trial the sheriff and his constables shall take steps, inconspicuously and politely, to halt at once any talking, whispering or other unnecessary noise by or between persons in the body of the courtroom. The sheriff or constable shall go directly to the offending persons and politely **Maintaining Order**  
**Sheriffs Act S. 16**



## Notes

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but firmly request that they cease. Only in the most extreme cases should the sheriff call out from his place on the bench. Hand signals shall never be used. A constable stationed outside of the door of the courtroom shall bring to a halt immediately any noise or disturbance that might be heard inside the courtroom.

The taking of pictures in or about the courthouse in relation to any matter before the court is strictly forbidden and the sheriff should warn any person having a camera in his possession against its use in this connection and, if necessary, confiscate it. (Subject to sub. sec. (3) of sec. 68a of The Judicature Act).

**Cameras  
Jud. Act  
Sec. 68a**

Prior to the opening of court the sheriff shall ensure that the courtroom is in a state of readiness. The lighting, heating and ventilation should be checked. Water pitchers should be available and filled with fresh water. Enough water glasses should be available. The necessary stationery, ink, etc., should be on the judge's desk and the counsel tables.

**Preparing  
Courtroom**

No coats, hats or other articles belonging to witnesses, members of the jury panel or spectators should be allowed to be placed over or upon the seats or railings of the courtroom in any manner that, in the opinion of the sheriff, would detract from the proper appearance and dignity of the court.

**Coats and  
Hats in  
Courtroom**

Prior to the opening of the court on the first day of a judge's assignment the sheriff shall ask for the judge's instructions as to the times when the public are to be forbidden to enter the courtroom. The sheriff shall so advise his constable stationed outside of the courtroom and the constable shall see that the instructions are adhered to rigidly. It is equally important, however, that the constable permit any respectably-dressed adult to enter the courtroom at those times not forbidden. A constable stationed inside the courtroom shall usher persons entering the courtroom into the available seats as quickly and quietly as possible. When all seats are occupied no person shall be permitted to enter.

**Public  
Entering  
Courtroom**

The sheriff should have ready for the opening of the Assizes and the General Sessions of the Peace the following documents:

**Ready for  
Court Opening**

—precept

—petit jury panel

—petit jury cards, checked by the sheriff for accuracy of detail



## Notes

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The sheriff shall deliver the petit jury cards to the clerk who shall cause them to be placed in a box to be provided by the sheriff for the purpose. The box shall be of a type that can be easily shaken in a manner that will ensure that the cards are mixed thoroughly.

Crim. Code  
560 S. (1)(2)  
Jurors Act  
S. 30  
Box for Cards

The sheriff should make certain that the superintendent of the jail or superintendents, if there is more than one such institution in the county (or district) has prepared a calendar of prisoners and he or they are available for the opening of the court.

Calendar of  
Prisoners  
Auth.  
C.J.H.C.

In counties (or districts) where the regional jail is in an adjoining area it is the responsibility of each sheriff to provide the List of Prisoners for his county (or district). It is only the judge sitting in that county (or district) that would have jurisdiction to try the case, therefore, he or she should have the List.

Prior to the opening of the court the sheriff shall attend upon the judge in his (or her) chambers and perform such tasks as the judge may require. If it is a lady Judge the Sheriff shall also assign a female constable to attend upon her.

When the court is scheduled to commence the sheriff shall proceed to the courtroom to ascertain from the clerk whether all is in readiness. If such be the case the sheriff shall so inform the judge.

When the judge is ready the sheriff shall precede him (or her) into the courtroom by two or three paces. As soon as the sheriff enters the courtroom he shall “ORDER” in a loud clear voice. All persons in the courtroom shall rise and remain standing. The constables shall ensure that they do so. The sheriff precedes the judge until he (or she) reaches the stairs leading to the dais. Here the sheriff shall step to one side to permit the judge to ascend to the bench, the sheriff bowing to the judge as he (or she) passes. He shall then follow the judge on to the dais. A constable should be delegated to follow the judge and the sheriff to the dais and assist the judge into his (or her) chair. The sheriff shall stand to one side of the judge while the clerk makes the necessary proclamation and then take his seat.

Entering  
Courtroom

During criminal trials at a Supreme Court Assize and a General Sessions of the Peace the sheriff shall wear his hat and carry his sword at the opening and closing of the court each day and, except at a recess, at every other adjournment and the resumption of the court thereafter. The sheriff’s hat shall be a black,

Hat and  
Sword



## Notes

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cocked hat. His sword is optional as to type as is the use of a belt and scabbard with the sword. At the opening of the court when the judge is ready to enter the courtroom the sheriff shall don his hat and place his sword at “the carry”. After taking his seat the sheriff shall remove his hat and place it and his sword on the desk in front of him.

NOTE: At “the carry” means that the right elbow should be held firmly against the right side with the forearm being held horizontal and pointed to the front. The sword should be perpendicular with the edge to the front and be held between the index finger and the thumb. The other fingers should be lightly curled. The hilt of the sword should rest lightly on the upper part of the hand.

When the judge announces an adjournment and after the jury and the accused have been removed the sheriff shall rise from his seat, call “ORDER” and, where applicable, don his hat and place his sword at “the carry”, and move to a position to one side of the judge ready to assist him (or her) from his (or her) chair, if necessary. After the clerk has made his proclamation the sheriff shall precede the judge from the dais to the door of the judge’s chambers, open the door and step to one side to permit the judge to pass through the doorway, bowing to the judge as he (or she) passes. He shall then follow the judge into the room to assist him (or her) in any way he (or she) requests.

Leaving  
Courtroom

The dignified manner of the sheriff and his constables and the alertness with which they carry out their assignments is a prime factor in preserving the dignity and efficiency of the court.

The sheriff shall make certain that all his constables are fully aware of their duties. He should constantly remind the constables in charge of accused and juries of their specific duties and of the great responsibility that has been placed upon them. The provisions of the Criminal Code with respect to their duties should be read and discussed with them. They should be reminded that a constable in charge of a jury takes his instructions from the judge, not the sheriff; that jurors shall not be permitted to communicate with anyone other than another member of the jury without leave of the judge; that the sheriff himself shall not attempt to communicate with the jury.

Constables  
Sheriffs Act  
S. 18



## Notes

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In dealing with the public inside, outside, entering and leaving the courtroom the sheriff and his constables shall adopt a dignified, firm but polite manner. It must always be remembered that the public is not being granted a favour in being allowed in the courtroom. The public is by law entitled to be there and should be treated with courtesy when they are.

Dealing With  
Public

The sheriff and his constables must always remember that they are neutral in all proceedings before the court. By facial expressions or other mannerisms they must not create the impression that they agree or disagree with anything said by an accused, witness, judge or counsel. For the same reason they must not discuss any case with an accused, a party to a civil action, a witness or counsel during recesses or other adjournments. It is inevitable that at such times they may overhear remarks made by the judge, counsel, witnesses, etc. These remarks shall not be repeated to anyone.

Neutrality

The Clerk

It is most important to the maintenance of dignity in the courtroom that the clerk be properly dressed. The clerk shall wear black shoes and dark grey striped trousers of conservative pattern; freshly-laundered white shirt, and white bow tie, a properly-fitted barrister's black waistcoat and gown. When the clerk is a female she shall wear a dark grey or black skirt, a white jabot or bib, a barrister's black waistcoat and gown. When the clerk is one of Her Majesty's Counsel the gown and accoutrements of that rank shall be worn. The clerk shall always bear in mind that the outfit is a complete ensemble no part of which should be worn separately outside of the privacy of the clerk's office.

Dress

The Clerk, properly attired shall be in the courtroom at least fifteen minutes before the court is scheduled to commence. He shall make a thorough check to ascertain that he has in his possession all necessary records, indictments, exhibits, examinations for discovery, commission evidence, etc., as the case may be. He shall obtain on a counsel slip (Form 1) the names of all counsel appearing in the first case unless the case is continuing from the previous day.

Before Court  
Opens

The counsel slip and the record or indictment, if available, required for the first case together with a list of the cases for the day shall be placed on the judge's desk. The general list of cases shall be readily available in the event that the judge should ask for it.



## Notes

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The clerk shall keep a book containing the minutes of the proceedings in the court. A sample page from a minute book is shown in Form 2. The minutes MUST be made at the time the proceeding takes place. The keeping of the minutes on sheets of paper for recopying into the minute book at a later time cannot be permitted. If the minutes are not made at the time the proceeding takes place the clerk will be in extreme difficulty if he is called upon to swear or certify to the accuracy of the minutes at some later date.

**Minute Book**  
**Rules of Practice 264**

Where a direction is given by the presiding judge that an amendment be made to any of the material before the court the clerk shall make a note of the fact in the minute book and make the amendment at the earliest opportunity. If the amendment is such that it cannot be made immediately it must be made at the first recess or adjournment. All amendments shall be printed neatly in red ink. If a typewritten slip of paper containing the amendment is supplied to the clerk he shall affix it firmly in its proper place and underline it in red ink. The clerk shall endorse the amended document “Amended at trial this ..... day of ..... 19.... pursuant to the direction of the trial judge”. The endorsement shall be signed by the clerk.

**Amendments**  
**Rules of Practice 135**

When counsel at a trial has obtained leave of the presiding judge to file an exhibit he should hand the exhibit to the clerk immediately. If he does not do so the clerk shall take every step possible to obtain the exhibit from counsel short of causing an unreasonable interruption of the proceedings. When the clerk does obtain the exhibit and if the judge has not already indicated the exhibit number, the clerk shall ask “May this be exhibit number ..... My Lord (or Lady) (or Your Honour)?”.

**Exhibits**

With a coloured pencil in figures at least one inch in height the clerk shall inscribe the number in an appropriate place on the exhibit and with the rubber stamp (Form 3) stamp the exhibit in a location where no part of the exhibit will be obliterated, complete the stamp and record it on his exhibit list (Form 3). If the exhibit is of such a nature, e.g., clothing, machinery, etc., that marking it in the manner described is impossible or impractical the number and stamp shall be placed on a cardboard tag and the tag fastened securely to the exhibit.

**Marking Exhibits**  
**Rules of Practice 262**

When potential exhibits are tendered to and accepted by the judge subject to identification they should be marked with a letter of the alphabet. No exhibit stamp should be placed on them or should they be added to the official exhibit list at this stage

**Exhibits for Identification**



## Notes

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of the proceedings but an informal list of such exhibits shall be maintained by the clerk. When further identification of the exhibits is given and accepted by the judge he will allot them numbers and it is then that they should be stamped and added to the exhibit list. When further identification is not forthcoming the unidentified exhibits shall remain in the custody of the court with the other exhibits until the final disposition of all the exhibits. In a jury case those exhibits marked for identification but not subsequently identified and marked as exhibits shall not be given to the jury.

During a trial the clerk is responsible for the exhibits and he must take every step possible to ensure that he has custody and control of them at all times. If the handling of the exhibits by the clerk becomes difficult because of their quantity or bulk the sheriff shall delegate a constable to assist as and when required. Unless the judge specifically directs, counsel or any other persons should not be permitted to take the exhibits out of the possession of the clerk during recesses, adjournments or at any other time. **Custody of Exhibits**

The importance of the neatness and accuracy in the keeping of the minutes and in the marking and listing of the exhibits cannot be emphasized too strongly. In many instances the minute book is the only record in existence of certain proceedings that transpired in the court and the exhibit list the only record of the ownership of valuable exhibits. **Neatness and Accuracy**

For the assistance of the judge and counsel the clerk shall have available at all times a memorandum of the measurements of various distances within the courtroom, e.g., the length of the perimeter walls, the distance between the witness box and the prisoner's dock, etc. **Measurements**

The clerk must always remember that he is a neutral in all proceedings before the court. By facial expressions or other mannerisms he must not create the impression that he agrees or disagrees with anything said by an accused, witness, judge, counsel, etc. For the same reason he should not discuss any case with an accused, a party to a civil action, a witness or counsel during recesses or other adjournments. It is inevitable that on occasions during a recess or adjournment the clerk may overhear remarks made by the judge, counsel, witnesses, etc. These remarks must never be repeated to anyone. **Neutrality**



CLERK TO SHERIFF

OYEZ, OYEZ, OYEZ: SHERIFF OF THE COUNTY (OR DISTRICT) OF . . . . . RETURN THE SEVERAL WRITS AND PRECEPTS TO YOU DIRECTED RETURNABLE HERE THIS DAY THAT MY LORD THE QUEEN'S JUSTICE (IF IN SESSIONS, HER MAJESTY'S JUDGE) MAY PROCEED THEREON. GOD SAVE THE QUEEN.

COUR SUPRÊME

OYEZ, OYEZ, OYEZ: QUE TOUTES PERSONNES AYANT AFFAIRE DEVANT SA SEIGNEURIE, JUGE DE SA MAJESTÉ DE LA COUR SUPRÊME DE L'ONTARIO À CES SESSIONS D'ASSISES, NISI PRIUS, OYER ET TERMINER (PRONONCEZ EN FRANÇAIS), ET LEVÉE D'ÉCROU, S'APPROCHENT ET ELLES SERONT ENTENDUES. DIEU SAUVE LA REINE.

GREFFIER AU SHÉRIF

OYEZ, OYEZ, OYEZ: MONSIEUR LE SHÉRIF DU COMTÉ (OU DISTRICT) DE . . . . ., REMETTEZ LES BREFS ET MANDATS QU'ON A DÉPOSÉS AUPRÈS DE VOUS ET QUI SONT PRÉVUS POUR CETTE DATE, À SA SEIGNEURIE LE JUGE DE LA REINE (EN SESSIONS, LE JUGE DE SA MAJESTÉ), AFIN QU'IL PUISSE PROCÉDER. DIEU SAUVE LA REINE.

NOTE:

THE SHERIFF SHALL THEN HAND THE PRECEPTS TO THE CLERK WHO, IN TURN, SHALL HAND THEM TO THE JUDGE. AFTER THE JUDGE HAS PERUSED THEM, HE WILL HAND THEM BACK TO THE CLERK.

THE PROCLAMATION IS TO BE GIVEN AT THE OPENING OF ANY JURY COURT, WHETHER IT BE CRIMINAL OR CIVIL.

# **GENERAL PROCLAMATIONS BY CLERK**

## **Opening Court**

### **SUPREME COURT—CRIMINAL**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE MY LORD (or LADY) THE QUEEN'S JUSTICE OF THE SUPREME COURT OF ONTARIO AT THIS SITTINGS OF ASSIZE AND NISI PRIUS, OYER AND TERMINER AND GENERAL GAOL DELIVERY FOR THE COUNTY (or DISTRICT) OF ....., DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.**

NOTE: Because of its long-standing pronunciation in this manner, "OYEZ" shall be pronounced as "OWE-YAY" despite any different pronunciation shown in authoritative dictionaries. The last syllable shall be accented. "NISI" shall be pronounced as "nice-eye"; "PRIUS" as "pry-us"; "OYER" as "oi-urr" and "TERMINER" as "term-in-urr". The first syllable of each of these words shall be accented. The word "GAOL" shall, of course, be pronounced "jail".

NOTE: THIS PROCLAMATION TO BE USED FOR CRIMINAL JURIES ONLY

### **SUPREME COURT—CIVIL JURY**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE MY LORD (or LADY) THE QUEEN'S JUSTICE OF THE SUPREME COURT OF ONTARIO AT THIS SITTINGS OF ASSIZE AND NISI PRIUS FOR THE COUNTY (or DISTRICT) OF ....., DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.**

NOTE: THIS PROCLAMATION TO BE USED AT CIVIL JURY SITTINGS



**LORSQUE LA SÉANCE EST LEVÉE**

**OYEZ, OYEZ, OYEZ: TOUTES PERSONNES AYANT AFFAIRE DEVANT SA SEIGNEURIE, JUGE DE SA MAJESTÉ DE LA COUR SUPRÊME DE L'ONTARIO, PEUVENT SE RETIRER MAINTENANT POUR Y REVENIR DEMAIN MATIN À.....HEURES. DIEU SAUVE LA REINE.**

**LORSQUE LES SESSIONS SONT TERMINÉES**

**OYEZ, OYEZ, OYEZ: LES SESSIONS DE CE TRIBUNAL SONT MAINTENANT TERMINÉES. DIEU SAUVE LA REINE.**

**SUPREME COURT—NON JURY**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE MY LORD (or LADY) THE QUEEN'S JUSTICE OF THE SUPREME COURT OF ONTARIO AT THIS SITTINGS FOR THE COUNTY (or DISTRICT) OF ..... FOR THE TRIAL OF ACTIONS WITHOUT A JURY, DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.**

NOTE: THIS PROCLAMATION TO BE USED AT NON JURY SITTINGS

**Closing Court for the Day****SUPREME COURT**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING FURTHER TO DO BEFORE MY LORD (or LADY) THE QUEEN'S JUSTICE OF THE SUPREME COURT OF ONTARIO MAY DEPART HENCE AT THIS TIME AND GIVE THEIR ATTENDANCE HERE AGAIN ..... MORNING AT ..... O'CLOCK. GOD SAVE THE QUEEN.**

**Closing Court at End of Sittings****ALL COURTS**

**OYEZ, OYEZ, OYEZ: THE SITTINGS OF THIS COURT IS NOW CONCLUDED. GOD SAVE THE QUEEN.**



**COUR DE COMTÉ/DISTRICT—SESSIONS DE LA PAIX**

**OYEZ, OYEZ, OYEZ: QUE TOUTES PERSONNES AYANT AFFAIRE DEVANT LE JUGE DE SA MAJESTÉ À CES SESSIONS GÉNÉRALES DE LA PAIX POUR LE COMTÉ (DISTRICT) DE..... S'APPROCHENT ET ELLES SERONT ENTENDUES. DIEU SAUVE LA REINE.**

**COUR DE COMTÉ/DISTRICT—COUR CRIMINELLE**

**OYEZ, OYEZ, OYEZ: QUE TOUTES PERSONNES AYANT AFFAIRE DEVANT LE JUGE DE SA MAJESTÉ À CES SESSIONS DE LA COUR CRIMINELLE DE LA COUR DE COMTÉ DU COMTÉ/DISTRICT DE..... S'APPROCHENT ET ELLES SERONT ENTENDUES. DIEU SAUVE LA REINE.**

**LORSQUE LA SÉANCE EST LEVÉE**

**OYEZ, OYEZ, OYEZ: TOUTES PERSONNES AYANT AFFAIRE DEVANT LE JUGE DE SA MAJESTÉ POUR LE COMTÉ (DISTRICT) DE..... PEUVENT MAINTENANT SE RETIRER POUR Y REVENIR DEMAIN MATIN À..... HEURES. DIEU SAUVE LA REINE.**

### COUNTY COURT—GENERAL SESSIONS

OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE HER MAJESTY'S JUDGE AT THIS GENERAL SESSIONS OF THE PEACE FOR THE COUNTY (or DISTRICT) OF ....., DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.

### COUNTY JUDGES' CRIMINAL COURT

OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE HER MAJESTY'S JUDGE AT THIS SITTINGS OF THE COUNTY (or DISTRICT) COURT JUDGES' CRIMINAL COURT FOR THE COUNTY (or DISTRICT) OF ....., DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.

### COUNTY COURT—CIVIL

OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE HER MAJESTY'S JUDGE AT THIS SITTINGS FOR THE COUNTY (or DISTRICT) OF ..... FOR THE TRIAL OF ACTIONS WITH (or WITHOUT) A JURY, DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.

### COUNTY COURT CLOSING FOR THE DAY

OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING FURTHER TO DO BEFORE HER MAJESTY'S JUDGE FOR THE COUNTY (or DISTRICT) OF ..... MAY DEPART HENCE AT THIS TIME AND GIVE THEIR ATTENDANCE HERE AGAIN ..... MORNING AT ..... O'CLOCK. GOD SAVE THE QUEEN.



## Notes

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## **MOTIONS COURT**

### **At Opening of Court:**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE MY LORD (or LADY) THE QUEEN'S JUSTICE OF THE SUPREME COURT OF ONTARIO (or HER MAJESTY'S LOCAL JUDGE OF THE S.C.O. OR HER MAJESTY'S JUDGE) AT THIS SITTINGS FOR THE HEARING OF MOTIONS FOR THE COUNTY (or DISTRICT) OF ..... DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD.**

The Closing shall follow same procedure as other Courts.

## **Divorce**

### **Matrimonial Causes Sittings**

#### **At opening of court:**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE HER MAJESTY'S LOCAL JUDGE OF THE SUPREME COURT OF ONTARIO AT THIS MATRIMONIAL CAUSES SITTINGS FOR THE COUNTY (or DISTRICT) OF ....., DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.**

#### **Closing of court when court is to be continued:**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING FURTHER TO DO BEFORE HER MAJESTY'S LOCAL JUDGE OF THE SUPREME COURT OF ONTARIO MAY DEPART HENCE AT THIS TIME AND GIVE THEIR ATTENDANCE HERE AGAIN ON ..... MORNING AT ..... O'CLOCK. GOD SAVE THE QUEEN.**

#### **Closing of court when sittings are concluded:**

**OYEZ, OYEZ, OYEZ: THE SITTINGS OF THIS COURT IS NOW CONCLUDED. GOD SAVE THE QUEEN.**



## Notes

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### **Mechanics' Lien Sitings**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE HER MAJESTY'S LOCAL JUDGE OF THE SUPREME COURT OF ONTARIO AT THIS MECHANICS' LIEN SITTINGS FOR THE COUNTY (or DISTRICT) OF ....., DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.**

#### **Closing when court is to be continued:**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING FURTHER TO DO BEFORE HER MAJESTY'S LOCAL JUDGE OF THE SUPREME COURT OF ONTARIO MAY DEPART HENCE AT THIS TIME AND GIVE THEIR ATTENDANCE HERE AGAIN ON ..... MORNING AT ..... O'CLOCK. GOD SAVE THE QUEEN.**

#### **Closing when sittings concluded:**

**OYEZ, OYEZ, OYEZ: THE SITTINGS OF THIS COURT IS NOW CONCLUDED. GOD SAVE THE QUEEN.**



## Notes

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## **Surrogate Court Sittings**

### **At opening of court:**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING TO DO BEFORE HER MAJESTY'S JUDGE OF THE SURROGATE COURT FOR THE COUNTY (or DISTRICT) OF ..... DRAW NEAR AND GIVE YOUR ATTENDANCE AND YOU SHALL BE HEARD. GOD SAVE THE QUEEN.**

### **Closing court when court is to be continued:**

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING ANYTHING FURTHER TO DO BEFORE HER MAJESTY'S JUDGE OF THE SURROGATE COURT FOR THE COUNTY (or DISTRICT) OF ....., MAY DEPART HENCE AT THIS TIME AND GIVE THEIR ATTENDANCE HERE AGAIN ON ..... MORNING AT ..... O'CLOCK. GOD SAVE THE QUEEN.**

### **Closing court when sittings concluded:**

**OYEZ, OYEZ, OYEZ: THE SITTINGS OF THIS COURT IS NOW CONCLUDED. GOD SAVE THE QUEEN.**



**L'EXCLUSION DES TÉMOINS**

**PAR ORDRE DE LA COUR, TOUS LES TÉMOINS DANS LA CAUSE DE..... SONT PRIÉS DE SE RETIRER DE LA SALLE D'AUDIENCE ET D'ATTENDRE À LA SALLE DES TÉMOINS JUSQU'À CE QU'ON LES APPELLE. ILS NE TENTERONT D'AUCUNE FAÇON DE COMMUNIQUER AVEC LES TÉMOINS QUI LES AURONT PRÉCÉDÉS À LA BOÎTE DES TÉMOINS.**

**AJOURNEMENT**

**MEMBRES DU JURY, VOUS POUVEZ MAINTENANT VOUS RETIRER POUR UN AJOURNEMENT DE..... MINUTES.**

**CONSTABLE, AMENEZ L'ACCUSÉ POUR UN AJOURNEMENT DE..... MINUTES.**

## **Interim Proclamations**

### **EXCLUSION OF WITNESSES**

**BY DIRECTION OF HIS LORDSHIP (or HER LADYSHIP) (or HIS (or HER) HONOUR) ALL WITNESSES IN THIS CASE WITH THE EXCEPTION OF ..... (as directed by presiding judge) ..... ARE TO BE EXCLUDED FROM THE COURTROOM UNTIL CALLED. IF YOU ARE BEING CALLED AS A WITNESS YOU WILL LEAVE THE COURTROOM AT THIS TIME AND TAKE YOUR PLACE IN THE WITNESS ROOM (or the usual place depending upon the accommodation available) AND BE AVAILABLE TO COME TO THE COURTROOM WHEN REQUIRED. WHILE WAITING TO BE CALLED YOU WILL NOT ATTEMPT TO COMMUNICATE IN ANY WAY WITH ANY WITNESS WHO HAS PREVIOUSLY TESTIFIED IN THIS CASE**

### **RECESS**

Where the presiding judge has ordered a recess,

**Clerk to jury:**

**MEMBERS OF THE JURY YOU MAY NOW RETIRE FOR A . . . . MINUTE RECESS.**

The jury shall then be taken out of the courtroom.

**Clerk to constable in charge of accused:**

**CONSTABLE, REMOVE THE ACCUSED FOR A  
..... MINUTE RECESS.**

The accused shall then be taken out of the courtroom. The sheriff shall call "ORDER",



**LA SÉANCE SERA SUSPENDUE POUR.....MINUTES.**

**LA SÉANCE EST REPRISE.**

**Clerk to court:**

**THE COURT WILL RECESS FOR ..... MINUTES.**

At the exact time of the expiry of the recess the sheriff shall attend upon the judge to escort him (or her) to the courtroom. After the judge has returned to the courtroom,

**Clerk to court:**

**THE COURT IS NOW RESUMED.**

The accused and the jury shall then be returned to the courtroom.

### **LUNCHEON ADJOURNMENT**

Where the presiding judge has ordered an adjournment for luncheon,

**Clerk to jury:**

**MEMBERS OF THE JURY YOU MAY NOW  
RETIRE UNTIL ..... O'CLOCK.**

The jury shall then be taken out of the courtroom.

**Clerk to constable in charge of accused:**

**CONSTABLE, REMOVE THE ACCUSED FOR  
THE LUNCHEON PERIOD.**

The accused shall then be removed from the courtroom. The sheriff shall call "ORDER" and,

**Clerk to court:**

**THE COURT STANDS ADJOURNED UNTIL .....  
O'CLOCK.**

At the end of the luncheon adjournment and after the judge has returned to the courtroom,

**Clerk to court:**

**THE COURT IS NOW RESUMED.**

The accused and the jury shall then be returned to the courtroom and the jury shall be polled.



## Notes

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# OATHS TO BE ADMINISTERED

## To Witnesses

The administering of the oath to a witness is undoubtedly the most important duty to be performed by a clerk of the court.

The clerk shall always bear in mind that most witnesses are extremely nervous. An efficient clerk may very often allay such nervousness by the manner in which he asks for the witness's name and administers the oath. A witness must never be made to feel uneasy or be allowed to get the impression that he is being "bullied" by the actions, looks or words of the clerk, sheriff, constables, etc.

After a witness is in the witness box and before he is sworn the clerk shall ask him for his name in full. This must be done in a kindly, courteous and dignified manner. If his name is not a simple common name or is one that may be spelled in more than one way the clerk shall ask the witness to spell the name. When the clerk is certain that the judge and the court reporter have recorded the name he shall proceed to administer the oath.

A witness may be sworn in such form and with such ceremony as he may declare to be binding. Where it becomes necessary to administer a form of oath not included in this book the clerk shall be guided by the instructions of the presiding judge.

**Evidence Act  
S. 17**

Many witnesses, because of their nervousness or unfamiliarity with the English language, may have difficulty in understanding the words of an oath that is administered to them too rapidly. Thus the clerk must strive to develop his delivery of the oath to a point where no misunderstanding is possible. It should be administered clearly, slowly, and with dignity and emphasis.

The witness should be standing while the oath is being administered unless the judge otherwise directs and, where applicable, should be holding the Book in the right hand. Witnesses who appear in the witness box wearing gloves should be asked politely to remove the right glove.

**Evidence Act  
S. 17**

### **SERMENTS**

**VOUS JUREZ QUE LE TÉMOIGNAGE QUE VOUS DON-  
NEREZ À CE TRIBUNAL ENTRE SA MAJESTÉ LA REINE  
ET L'ACCUSÉ DEVANT LE TRIBUNAL SERA LA VÉRITÉ,  
LA VÉRITÉ ENTIÈRE, ET RIEN AUTRE CHOSE QUE LA  
VÉRITÉ, QUE DIEU VOUS SOIT EN AIDE.**

### **POUR L'ACCUSÉ**

**VOUS JUREZ QUE LE TÉMOIGNAGE QUE VOUS DON-  
NEREZ À CE TRIBUNAL ENTRE SA MAJESTÉ LA REINE  
ET VOUS SERA LA VÉRITÉ, LA VÉRITÉ ENTIÈRE ET RIEN  
AUTRE CHOSE QUE LA VÉRITÉ, QUE DIEU VOUS SOIT  
EN AIDE.**



**Clerk to witness (other than an accused) at a criminal trial:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT (AND TO THE JURY SWORN as the case may be) BETWEEN OUR SOVEREIGN LADY THE QUEEN AND THE ACCUSED AT THE BAR SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

NOTE: Whenever a witness is sworn the clerk should wait for an affirmative reply.

**Clerk to accused as a witness at his trial:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT (AND TO THE JURY SWORN as the case may be) BETWEEN OUR SOVEREIGN LADY THE QUEEN (THE ACCUSED AT THE BAR if more than one accused) AND YOU ON YOUR TRIAL SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

**Clerk to witness at civil trial:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT (AND TO THE JURY SWORN as the case may be) TOUCHING THE MATTERS IN QUESTION BETWEEN THE PARTIES SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

**SUR UN VOIR DIRE**

**VOUS JUREZ QUE LE TÉMOIGNAGE QUE VOUS DON-  
NEREZ À CE TRIBUNAL ENTRE SA MAJESTÉ LA REINE  
ET VOUS SUR CETTE QUESTION EN LITIGE SERA LA  
VÉRITÉ, LA VÉRITÉ ENTIÈRE ET RIEN AUTRE CHOSE  
QUE LA VÉRITÉ, QUE DIEU VOUS SOIT EN AIDE.**

**Clerk to witness (other than an accused) on a voir dire or an insanity issue:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT (AND TO THE JURY SWORN as the case may be) BETWEEN OUR SOVEREIGN LADY THE QUEEN AND THE ACCUSED AT THE BAR ON THIS ISSUE SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.**

NOTE: On a voir dire the above oath need not be administered if the witness has been sworn previously in the case.

**Clerk to accused as a witness on a voir dire:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT BETWEEN OUR SOVEREIGN LADY THE QUEEN (THE ACCUSED AT THE BAR if more than one accused) AND YOU ON THIS ISSUE SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

NOTE: The above oath need not be administered if the accused has been sworn previously as a witness in the case.

**Clerk to witness on trial of challenge for cause:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT AND TRIERS SWORN UPON THIS INQUEST SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**



**AFFIRMATION SOLENNELLE**

**DÉCLAREZ-VOUS ET AFFIRMEZ-VOUS SOLENNELLEMENT QUE LE TÉMOIGNAGE QUE VOUS DONNEREZ À CE TRIBUNAL ENTRE SA MAJESTÉ LA REINE ET L'ACCUSÉ SERA LA VÉRITÉ, LA VÉRITÉ ENTIÈRE ET RIEN AUTRE CHOSE QUE LA VÉRITÉ?**

**OTHER BELIEFS OR NATIONALITIES****AFFIRMATION BY WITNESS**

When a witness objects to the taking of any oath because of religious scruples, he may make an affirmation. The following form may be altered to suit most situations.

NOTE: This applies to atheists, satanists, etc.

**Witness repeats after clerk:**

**I ....., DO ENTERTAIN CONSCIENTIOUS  
OBJECTIONS TO THE TAKING OF AN OATH,  
AND DO SOLEMNLY, SINCERELY, AND TRULY  
AFFIRM AND DECLARE THAT THE EVIDENCE I  
SHALL GIVE TO THE COURT (AND TO THE  
JURY SWORN as the case may be), (in civil  
cases, TOUCHING THE MATTERS IN QUESTION  
BETWEEN THE PARTIES) (IN CRIMINAL CASES  
BETWEEN OUR SOVEREIGN LADY THE QUEEN  
AND THE ACCUSED AT THE BAR) SHALL BE  
THE TRUTH, THE WHOLE TRUTH, AND  
NOTHING BUT THE TRUTH.**

NOTE: The words "SO HELP ME GOD" are omitted.

**AGNOSTIC WITNESS****The witness repeats after the clerk as follows:**

**I SOLEMNLY AFFIRM THAT THE EVIDENCE TO  
BE GIVEN BY ME TO THE COURT (AND TO THE  
JURY SWORN as the case may be), (in civil  
cases TOUCHING THE MATTERS IN QUESTION  
BETWEEN THE PARTIES), (in criminal cases  
BETWEEN OUR SOVEREIGN LADY THE QUEEN  
AND THE ACCUSED AT THE BAR) SHALL BE  
THE TRUTH THE WHOLE TRUTH, AND  
NOTHING BUT THE TRUTH.**

NOTE: The words "SO HELP ME GOD" are omitted.

## Notes

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### **BUDDHIST WITNESS**

Bible is not handed to the witness but the following oath is repeated by the witness after the clerk as follows:

**I DECLARE, AS IN THE PRESENCE OF BUDDHA, THAT I AM UNPREJUDICED AND IF WHAT I SHALL SPEAK SHALL PROVE FALSE, OF IF BY COLOURING TRUTH OTHERS SHALL BE LED ASTRAY, THEN MAY THE THREE HOLY EXISTENCES, BUDDHA, DHAMMA AND PROSANGHA, IN WHOSE SIGHT I NOW STAND, TOGETHER WITH THE DEVOTEES OF THE TWENTY-TWO FIRMAMENTS, PUNISH ME AND ALSO MY MIGRATING SOUL.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

### **CHINESE OATHS**

The clerk should first ask the witness which oath will be binding on his conscience.

#### **THE SAUCER OATH (FOLLOWER OF CONFUCIUS)**

A saucer is handed to the witness, who takes it in his hand and, kneeling down, cracks it against some object, whereupon he repeats after the clerk the following words:

**I TELL THE TRUTH AND THE WHOLE TRUTH AND NOTHING BUT THE TRUTH. IF NOT, AS THAT SAUCER IS CRACKED MAY MY SOUL BE CRACKED LIKE THAT SAUCER.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

## Notes

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### **THE PAPER OATH: (FOLLOWER OF BUDDHA)**

The witness writes his name on a piece of paper and burns the paper, whereupon he repeats after the clerk the following words:

**I TELL THE TRUTH AND THE WHOLE TRUTH.  
IF NOT, AS THAT PAPER IS BURNED MAY MY  
SOUL BE BURNED LIKE IT.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

### **THE KING'S OATH OR CHICKEN OATH (CANTON CHINESE)**

This is done by cutting off the head of a live cock. For details see R. v. Ah Wooy (1902), 8 C.C.C. 25 also Crankshaw C.C. 7th Ed. 1959.

### **GERMAN**

Witness holds the Bible in his right hand and the following oath is repeated by the witness after the clerk as follows:

**I SWEAR BY GOD THE ALMIGHTY AND OMNI-  
SCIENT THAT I WILL SPEAK THE WHOLE  
TRUTH AND WILL WITHHOLD AND WILL ADD  
NOTHING.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

### **HINDU**

Witness places his hand on the Gita and repeats after the clerk: (The Gita is the Hindu Holy Book).

**IN THE PRESENCE AND IN THE NAME OF  
ISHWAR, I DO SOLEMNLY DECLARE THAT I  
WILL STATE THE TRUTH AND NOTHING BUT  
THE TRUTH. SO HELP ME ISHWAR.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".



## Notes

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### **JAPANESE**

A Japanese witness is sworn without holding a Bible. He repeats after the clerk the following form of oath:

**I SWEAR THAT IN ACCORDANCE WITH MY CONSCIENCE I SHALL TELL THE TRUTH WITHHOLDING NOTHING AND MAKE NO FALSE STATEMENTS.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

### **JEWISH WITNESS**

When any of the foregoing oaths are administered to a Jew the words "SO HELP YOU JEHOVAH" should be substituted for "SO HELP YOU GOD". The witness should hold the Book opened at the Pentateuch, Ex. c. 20. The head of the witness should be covered while the oath is being administered unless the witness declares himself to be bound by the oath without his head being covered.

### **MOHAMMEDAN OR MOSLEM WITNESS**

Witness places his hand on the Koran and repeats after the clerk:

**IN THE PRESENCE OF AND IN THE NAME OF ALLAH, I SOLEMNLY DECLARE THAT I WILL STATE THE TRUTH AND NOTHING BUT THE TRUTH. SO HELP ME ALLAH.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

### **MORAVIAN WITNESS (UNITED BRETHREN)**

See Affirmation by witness.

## Notes

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**MOSLEM WITNESS: (same as MOHAMMEDAN)****PARSEES**

A copy of the Zendavesta is handed to the witness, who places his hand upon it and repeats the words of the oath after the clerk as follows:

**I SWEAR THAT THE EVIDENCE I SHALL GIVE  
SHALL BE THE TRUTH, BY GOD, GOD OMNI-  
PRESENT, AND GOD OMNIPOTENT, THE GOD  
ALMIGHTY.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

In one case, where a copy of the Zendavesta was not procurable, the witness was sworn while he held a "holy cord" wound around his body, the witness declaring such form to be binding on his conscience.

**POLISH**

The witness takes the Bible in his right hand and repeats after the clerk the following oath:

**I HEREBY SWEAR BEFORE GOD THE AL-  
MIGHTY THAT I WILL SPEAK BEFORE THE  
COURT NOTHING BUT THE TRUTH CONCEAL-  
ING NOTHING OF WHAT IS KNOWN TO ME. SO  
HELP ME GOD. AMEN.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

## Notes

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**RUSSIAN**

The witness is NOT handed the Bible but repeats the following oath after the clerk:

**I .....(name)....., A CITIZEN OF THE SOVIET SOCIALIST REPUBLIC PROMISE AND SWEAR IN THE PRESENCE OF THE COURT TO TELL THE COURT NOTHING BUT THE TRUTH CONCEALING NOTHING OF WHAT IS KNOWN TO ME.**

Clerk to witness: "Are you bound by that oath?"

Witness: "I am".

**SCOTTISH WITNESS**

When a witness requests that the Scottish oath be administered to him he should hold up his right hand in lieu of holding the Book:

Clerk to Scottish witness:

**YOU SWEAR BY ALMIGHTY GOD AND AS YOU SHALL ANSWER TO GOD AT THE GREAT DAY OF JUDGMENT THAT YOU WILL SPEAK THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.**

Witness: "I do".

NOTE: The words "SO HELP YOU GOD" are omitted.

**AUTHORITY FOR OATHS**

Affirmation	— Holmested & Langton, 2nd. ed. 756
Agnostic	— Holmested & Langton, 2nd. ed. 733
Buddhist	— Criminal Law Quarterly, 229 (E. R. Lovekin)
Chinese Oaths	— Crankshaw C.C. 7th. ed. 1959
German	— Crankshaw C.C. 7th. ed. 1959
Hindu	— Islamic Foundation of Toronto
Japanese	— Japanese Consulate Toronto
Jewish	— Report Inspector of Legal Office 1908 (2 Edw. VII C. 12, Sec. 29, 1902)
Mohammedan	— Islamic Foundation of Toronto
Moslem	— Islamic Foundation of Toronto
Moravian	— Holmested & Langton, 2nd. ed. 761
Parsees	— Criminal Law Quarterly
Polish	— Crankshaw C.C. 7th. ed. 1959
Russian	— Crankshaw C.C. 7th. ed. 1959
Scottish	— Courtroom Procedure 1965, P. 16



**SERMENT POUR L'INTERPRÈTE**

**VOUS JUREZ QUE VOUS COMPRENEZ LA LANGUE FRANÇAISE ET ANGLAISE, QUE VOUS INTERPRÉTerez FIDÈLEMENT ET CORRECTEMENT LES SERMENTS, ET LES QUESTIONS QUI SERONT POSÉS AU TÉMOIN, AINSI QUE SES RÉPONSES, AINSI QUE TOUTES AUTRES MATIÈRES QU'ON EXIGERA DE VOUS DU MIEUX DE VOTRE CONNAISSANCE. QUE DIEU VOUS SOIT EN AIDE.**

## To Interpreters

### TO THE INTERPRETER FOR A WITNESS

Where the judge directs that the evidence of a witness or witnesses is to be given through an interpreter the witness shall be placed in the witness box in the usual manner. The interpreter shall be called to the front of the court and shall stand in front of the clerk. The clerk shall ask him for his name in full and record the same in the minute book. He shall then be handed the Book and,

NOTE: An interpreter may be affirmed or sworn by any other form of oath which he declares to be binding on his conscience.

#### **Clerk to interpreter:**

**YOU SWEAR THAT YOU UNDERSTAND THE  
..... LANGUAGE AND THE ENGLISH  
LANGUAGE, THAT YOU SHALL WELL AND  
TRULY INTERPRET THE OATH(S) TO THE  
WITNESS(ES) AND ALL QUESTIONS PUT TO  
THE WITNESS(ES) AND HIS (or THEIR)  
ANSWERS THERETO, AND ALL SUCH MAT-  
TERS AND THINGS AS SHALL BE REQUIRED  
OF YOU, TO THE BEST OF YOUR SKILL AND  
UNDERSTANDING. SO HELP YOU GOD.**

The clerk shall then instruct the interpreter to ask the witness for his name in full. The clerk shall record the name of the witness in the usual manner and then instruct the interpreter to repeat after him the oath to the witness. The clerk shall administer the oath, pausing after each few words to enable the interpreter to repeat those words to the witness.

## Notes

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## **TO THE INTERPRETER FOR AN ACCUSED**

Where the judge directs that an interpreter may be present to interpret the proceedings for the accused the interpreter shall be called to the front of the court and shall stand in front of the clerk. The clerk shall ask him for his name in full and record the same in the minute book. He shall then be handed the Book and,

### **Clerk to Interpreter for accused:**

**YOU SWEAR THAT YOU UNDERSTAND THE  
..... LANGUAGE AND THE ENG-  
LISH LANGUAGE, THAT YOU SHALL WELL  
AND TRULY INTERPRET THE INDICTMENT  
AS READ TO THE ACCUSED AND HIS PLEA  
THERE TO, AND ALL SUCH MATTERS AND  
THINGS AS SHALL BE REQUIRED OF YOU,  
TO THE BEST OF YOUR SKILL AND UNDER-  
STANDING. SO HELP YOU GOD.**

The interpreter shall then be directed to take his seat beside or in the prisoners' dock.

## **To Petit Juries**

NOTE: The clerk shall not leave his place to administer the oath to a jury. The practice of some clerks proceeding to the front of the jury box to do so shall be discontinued.

NOTE: A juror may also be affirmed or sworn by any other form of oath which he declares to be binding on his conscience.

**AUX MEMBRES DU JURY**

**VOUS JUREZ DE CONSIDÉRER ATTENTIVEMENT LA  
PREUVE ET DE RENDRE UN VERDICT JUSTE SELON  
LA PREUVE DANS CE PROCÈS ENTRE SA MAJESTÉ  
LA REINE ET L'ACCUSÉ DEVANT LE TRIBUNAL. QUE  
DIEU VOUS SOIT EN AIDE.**

### **TO THE PETIT JURY IN A CRIMINAL TRIAL**

Each member of the petit jury in a criminal trial shall be sworn separately before he takes his place in the jury box provided that he has not been challenged nor asked to stand aside. He shall be handed the Book by the constable in charge and,

**Clerk to petit jurors in criminal trial:**

**YOU SWEAR THAT YOU SHALL WELL AND TRULY TRY AND TRUE DELIVERANCE MAKE BETWEEN OUR SOVEREIGN LADY THE QUEEN AND THE ACCUSED AT THE BAR WHOM YOU SHALL HAVE IN CHARGE AND TRUE VERDICT GIVE ACCORDING TO THE EVIDENCE. SO HELP YOU GOD.**

### **TO THE PETIT JURY IN A CIVIL TRIAL**

After all challenges have been disposed of, the petit jury in a civil trial shall be sworn together as they stand in the jury box with each juror holding the Book handed to him by the constable in charge and,

**Clerk to petit jurors in civil trial:**

**YOU SWEAR THAT YOU SHALL WELL AND TRULY TRY THE ISSUES JOINED BETWEEN THE PARTIES AND A TRUE VERDICT GIVE ACCORDING TO THE EVIDENCE. SO HELP YOU GOD.**



## Notes

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**TO THE JURY ON THE TRIAL OF AN**  
**INSANITY ISSUE**

The twelve jurors selected to try an issue as to the insanity of an accused shall be sworn together as they stand in the jury box. Each juror shall hold the Book handed to him by the constable in charge and,

**Clerk to jurors on the trial of an insanity issue:**

**IN ADDITION TO THE ISSUE ON WHICH YOU ARE ALREADY SWORN (if such be the case) YOU SWEAR THAT YOU SHALL DILIGENTLY INQUIRE AND TRUE PRESENTMENT MAKE FOR AND ON BEHALF OF OUR SOVEREIGN LADY THE QUEEN WHETHER THE ACCUSED AT THE BAR WHO STANDS HERE INDICTED FOR AN OFFENCE IS FIT OR IS UNFIT TO STAND HIS TRIAL ON ACCOUNT OF INSANITY, AND A TRUE VERDICT GIVE ACCORDING TO THE EVIDENCE. SO HELP YOU GOD.**

**AUX CONSTABLES**

**VOUS JUREZ DE GARDER LE JURY DANS UN ENDROIT  
COMMODE ET PRIVÉ, D'EMPÊCHER QU'ON LEUR  
PARLE, ET DE NE PAS LEUR PARLER VOUS-MÊME  
SANS L'AUTORISATION DU TRIBUNAL, SAUF S'ILS'AGIT  
DE LEUR DEMANDER S'ILS SONT D'ACCORD SUR UN  
MÊME VERDICT. QUE DIEU VOUS SOIT EN AIDE.**



## **To Constables**

When a petit jury is ready to retire to the jury room the constable in charge shall come to the front of the court to be sworn. He shall take the Book in his hand and,

### **Clerk to constable in charge of petit jury:**

**YOU SWEAR THAT YOU WILL KEEP THE MEMBERS OF THIS JURY IN SOME PRIVATE AND CONVENIENT PLACE, YOU SHALL NOT SUFFER ANY PERSON TO SPEAK TO THEM OR ANY OF THEM, NEITHER SHALL YOU SPEAK TO THEM YOURSELF UNLESS IT BE TO ASK THEM WHETHER THEY ARE AGREED UPON THEIR VERDICT, WITHOUT LEAVE OF THE COURT. SO HELP YOU GOD.**

When the case being tried is such that the judge considers it necessary to direct that the jury be kept together for the duration of the trial,

### **Clerk to constable in charge of petit jury (to be locked up):**

**YOU SWEAR THAT YOU WILL ATTEND THE MEMBERS OF THIS JURY AND REMAIN WITH THEM DURING THE RECESSES, MEAL ADJOURNMENTS AND THE NIGHTS OF THIS TRIAL, YOU SHALL NOT SUFFER ANY PERSON TO SPEAK TO THEM OR ANY OF THEM, NEITHER SHALL YOU SPEAK TO THEM YOURSELF WITH REFERENCE TO THIS CAUSE, WITHOUT LEAVE OF THE COURT. SO HELP YOU GOD.**

## Notes

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## **Miscellaneous**

### **TO DOCTORS, NURSES, ETC., ATTENDING JURY**

When the presiding judge considers that it might be necessary for a doctor, nurse, etc., to attend any of the jurors during a trial he (or she) will direct the clerk to swear them. The doctor or nurse, etc., shall be handed the Book while they stand in front of the clerk and,

#### **Clerk to doctor, nurse, etc., attending jury:**

**YOU SWEAR THAT YOU WILL ATTEND ON ANY OF THE JURORS IN THIS CASE AS AND WHEN YOU MAY BE REQUIRED AND RENDER MEDICAL ATTENTION, THAT YOU WILL NOT DISCUSS THE CASE WITH THEM OR DISCUSS ANY OTHER MATTER WITH THEM EXCEPT SUCH AS MAY BE NECESSARY FOR THE PURPOSE OF RENDERING ANY MEDICAL ASSISTANCE THAT THEY MAY REQUIRE. SO HELP YOU GOD.**

### **TO STENOGRAPHER, WHO IS NOT AN OFFICIAL COURT REPORTER**

#### **IN CRIMINAL CASES**

##### **Clerk to stenographer:**

**YOU SWEAR THAT YOU WILL TRULY AND FAITHFULLY RECORD AND TRANSCRIBE, IF REQUIRED, ALL THE EVIDENCE WHICH MAY BE GIVEN IN THIS MATTER BETWEEN THE QUEEN AND THE ACCUSED AT THE BAR. SO HELP YOU GOD.**

#### **IN CIVIL CASES**

##### **Clerk to stenographer:**

**YOU SWEAR THAT YOU SHALL TRULY AND FAITHFULLY RECORD AND TRANSCRIBE, IF REQUIRED, THE EVIDENCE TO BE GIVEN IN THIS CASE. SO HELP YOU GOD.**



## Notes

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# **CRIMINAL TRIALS**

## **Supreme Court and Court of General Sessions**

### **CALLING THE PETIT JURY PANEL**

A roll call of the petit jury panel by the clerk or the sheriff usually takes place before the court opens although this may vary depending upon the circumstances in a particular court or on the order in which the presiding judge may wish to dispose of the business of the court. Inquiry should be made at this time to ascertain that every juror is under sixty-nine years of age and whether each juror understands the English language sufficiently to act as such. Any question in this regard should be brought to the attention of the presiding judge immediately. Similarly, if it becomes apparent during the roll call that a juror is deaf this also should be brought to the attention of the judge.

### **ARRAIGNMENT OF ACCUSED**

If there is more than one count in the indictment the clerk shall ask counsel for the crown, in an audible voice (for purposes of the record), upon which count or counts he is proceeding.

The clerk shall direct the accused to stand in his place in the prisoners' dock and,

**(i) if the accused is represented by counsel,**

**Clerk to counsel for accused:**

**MR. .... IS THAT THE ACCUSED  
C ..... D ..... IN THE PRISONER'S  
DOCK? (clerk pauses for reply)**

**(ii) or, if the accused is not represented by counsel,**

**GREFFIER À L'ACCUSÉ**

**ETES-VOUS L'ACCUSÉ.....?**  
**(nom)**

**NOUVEAU CHOIX**

**JUGE À L'ACCUSÉ**

**VOUS AVEZ CHOISI OU ÊTES CENSÉ AVOIR CHOISI  
D'ÊTRE JUGÉ PAR UNE COUR COMPOSÉE D'UN JUGE  
ET D'UN JURY. CHOISISSEZ-VOUS MAINTENANT  
D'ÊTRE JUGÉ PAR UN JUGE SANS JURY?**

**ACCUSÉ AU JUGE**

**PAR UN JUGE SANS JURY.**

**GREFFIER À L'ACCUSÉ**

**VOUS ÊTES INCULPÉ SOUS LE NOM DE.....  
DE L'ACCUSATION SUIVANTE:**

**(LIRE L'ACCUSATION EN ANGLAIS ET EN FRANÇAIS)**

**COMMENT PLAIDEZ-VOUS À CETTE ACCUSATION,  
COUPABLE OU NON COUPABLE?**

**(S'IL Y A PLUSIEURS CHEFS D'ACCUSATION).**

**COMMENT PLAIDEZ-VOUS À CES CHEFS D'ACCUSA-  
TION, COUPABLE OU NON COUPABLE?**



**Clerk to accused:**

**ARE YOU THE ACCUSED C ..... D ..... ?**  
**(clerk pauses for reply)**

### **RE-ELECTION**

After the identity of the accused has been established and where the accused had previously elected to be tried by a court composed of a judge and jury but has since indicated that he desires to re-elect, and counsel for the crown consents.

**Judge to accused:**

**YOU HAVE ELECTED OR ARE DEEMED TO  
HAVE ELECTED TO BE TRIED BY A COURT  
COMPOSED OF A JUDGE AND JURY. DO  
YOU NOW ELECT TO BE TRIED BY A JUDGE  
WITHOUT A JURY?**

**Accused to judge:**

**BY A JUDGE WITHOUT A JURY.**

The trial then proceeds except that all proceedings with reference to the jury are, obviously, omitted.

After the identity of the accused has been so established and if there is only one count in the indictment or if there is more than one count and the crown is proceeding on all counts,

**Clerk to accused:**

**YOU STAND INDICTED BY THE NAME OF  
C ..... D ..... AS FOLLOWS:**

**(the clerk shall then read that part of the  
indictment commencing with the words  
“C ..... D ..... stands charged”)**

## Notes

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**UPON THIS INDICTMENT HOW DO YOU PLEAD,  
GUILTY OR NOT GUILTY? (clerk pauses for  
reply by accused, not his counsel)**

If there is more than one count in the indictment and the crown is proceeding on more than one count but not on all counts,

**Clerk to accused:**

**YOU STAND INDICTED BY THE NAME OF  
C ..... D ..... AS FOLLOWS:**

**(the clerk shall then read that part of the  
indictment commencing with the words  
C ..... D ..... stands charged that  
.....” and only those counts being  
proceeded with)**

**UPON THESE COUNTS IN THE INDICTMENT  
HOW DO YOU PLEAD, GUILTY OR NOT  
GUILTY? (clerk pauses for reply by accused, not  
his counsel)**

Where there are multiple counts the clerk should read each count in turn and take pleas before proceeding to the next count.

**Crim. Code  
S. 520(1)**

If the accused pleads not guilty to the only count or to all counts if there are more than one being proceeded with, the clerk shall endorse “NOT GUILTY” upon the face of the indictment opposite the count or counts on which the accused was arraigned and date and initial endorsement. If the accused pleads guilty to the only count or guilty to at least one count if there is more than one being proceeded with, the clerk shall endorse upon the back of the indictment commencing at the upper left corner thereof: “Upon arraignment the accused pleads guilty as within charged (or pleads guilty to count number one and not guilty to count number two or as the case may be)”. The clerk shall then endorse the date and hand the indictment to the judge for signature. It should be noted that in the case of multiple accused, the clerk should identify the accused and their respective pleas individually in the endorsement. The judge will then return the indictment to the clerk.



**GREFFIER À L'ACCUSÉ**

**ÉCOUTEZ VOTRE PLAIDOYER TEL QUE LA COUR L'A  
RETENU. VOUS PLAIDEZ . . .**

**GREFFIER À L'ACCUSÉ**

**VOUS ÊTES PRÊT POUR VOTRE PROCÈS?**

**Clerk to accused:**

**HEARKEN TO YOUR PLEA AS THE COURT  
HATH RECORDED IT. YOU PLEAD GUILTY AS  
WITHIN CHARGED (or YOU PLEAD GUILTY TO  
COUNT NUMBER ONE AND NOT GUILTY TO  
COUNT NUMBER TWO or as the case may be).**

Where the accused has pleaded not guilty to any count in the indictment and the crown is proceeding,

**Clerk to accused:**

**ARE YOU READY FOR YOUR TRIAL?**

The clerk shall make certain that the accused answers. If the answer is “yes” the accused sits down and the trial is ready to proceed.

NOTE: In the Court of General Sessions the accused at this time may elect to be tried by a judge without a jury subject to the consent of counsel for the crown where such consent is required under the provisions of the Criminal Code. In such a case the clerk shall close that court and open the court as the County Judges’ Criminal Court and proceed as set out on page 56.

**CHOIX DU PETIT JURY**

**Greffier au petit jury**

**MEMBRES DU JURY, LORSQU'ON VOUS NOMMERA,  
VENEZ PRENDRE PLACE À L'AVANT DANS L'ORDRE  
SELON LEQUEL VOUS AUREZ ÉTÉ NOMMÉS.**



## **SELECTING A PETIT JURY**

NOTE: During the selection of or administering of the oath to a jury the clerk shall never leave his place. The practice of some clerks standing in front of the jury box at these times shall be discontinued.

**Clerk to petit jurors:**

**MEMBERS OF THE JURY, AS YOUR NAME IS CALLED YOU WILL COME FORWARD AND TAKE YOUR PLACE (clerk shall indicate by pointing to the place where the line of jurors is to stand) IN THE ORDER IN WHICH YOU HAVE BEEN CALLED.**

The clerk, having placed all the jurors' cards in the box, shall shake the box and draw a card. Reading aloud the name and particulars on the card, the clerk shall allow enough time for the juror to reach the place where the line of jurors is to stand and for the counsel to write down the particulars. The clerk shall repeat this procedure until the number of jurors prescribed by the judge (usually twenty) has been called. Those called shall stand in line at the back of the jury box or, if the accommodation does not permit this, at the side of the jury box in the order in which they are called. The clerk shall place the cards face up on the desk in the order in which they have been taken from the box.

**Crim. Code  
S. 560(3)(4)  
Juries Act  
S. 30**

GREFFIER À L'ACCUSÉ

QUE L'ACCUSÉ SE LÈVE.

CES JURÉS QUI SERONT NOMMÉS ET QUI VIENDRONT À L'AVANT SONT LE JURY QUI AURONT À TRANCHER ENTRE SA MAJESTÉ LA REINE ET VOUS-MÊME À VOTRE PROCÈS. ALORS, SI VOUS (OU L'UN D'ENTRE VOUS) VOULEZ CONTESTER L'UN D'ENTRE EUX, VOUS DEVEZ LE FAIRE LORSQU'ILS VIENNENT POUR ÊTRE ASSERMENTÉS AVANT QU'ILS NE SOIENT ASSERMENTÉS ET ON VOUS DONNERA LA PAROLE.

GREFFIER À L'ACCUSÉ ET AU JURÉ

ACCUSÉ, REGARDEZ LE JURÉ;  
JURÉ, REGARDEZ L'ACCUSÉ.

**Clerk to accused:**

**THE ACCUSED WILL STAND (clerk should pause here). THESE GOOD JURORS WHOSE NAMES YOU SHALL NOW HEAR CALLED AND WHO DO APPEAR ARE THE JURY WHICH ARE TO PASS BETWEEN OUR SOVEREIGN LADY THE QUEEN AND YOU ON YOUR TRIAL. IF, THEREFORE, YOU (if more than one accused OR ANY OF YOU) SHALL CHALLENGE THEM OR ANY OF THEM YOU MUST DO SO AS THEY COME TO THE BOOK TO BE SWORN AND BEFORE THEY ARE SWORN, AND YOU SHALL BE HEARD.**

The clerk shall then call the name of the first juror and instruct him to step forward as he reads the particulars on the card. The juror shall stand in front of the jury box.

**Clerk to accused and juror:**

**ACCUSED (pause) LOOK AT THE JUROR; JUROR (pause) LOOK AT THE ACCUSED.**

At this point the clerk shall pause to permit counsel to challenge the juror or to indicate that he is content. Counsel for the accused challenges first and if there is more than one accused their counsel challenge in the order in which the names of the accused appear in the indictment. If there is more than one accused represented by one counsel he must indicate on whose behalf the challenge is being made. If the juror is challenged peremptorily,

**Clerk to juror:**

**PLEASE TAKE A SEAT IN THE BODY OF THE COURTROOM.**



**GREFFIER AU JURÉ**

**S'IL VOUS PLAÎT, RETOURNEZ À VOTRE PLACE DANS LA SALLE D'AUDIENCE.**

**(OU AJOUTER S'IL Y A LIEU)**

**MAIS ON POURRA VOUS RAPPELER.**

**GREFFIER AU JURÉ**

**VOUS JUREZ DE BEL ET BIEN CONSIDÉRER LES FAITS ENTRE SA MAJESTÉ LA REINE ET L'ACCUSÉ À LA BARRE ET DE RENDRE UN VERDICT JUSTE SUR LA PREUVE, QUE DIEU VOUS SOIT EN AIDE.**

If the juror is asked to stand aside by counsel for the crown,

**Clerk to juror:**

**PLEASE TAKE YOUR PLACE IN THE BODY OF THE COURTROOM BUT YOU MAY BE SUBJECT TO BEING RECALLED.**

If the juror is neither challenged nor asked to stand aside he shall be handed the Book by the constable and, **Crim. Code S. 560(4)**

**Clerk to juror:**

**YOU SWEAR THAT YOU SHALL WELL AND TRULY TRY AND TRUE DELIVERANCE MAKE BETWEEN OUR SOVEREIGN LADY THE QUEEN AND THE ACCUSED AT THE BAR WHOM YOU SHALL HAVE IN CHARGE AND TRUE VERDICT GIVE ACCORDING TO THE EVIDENCE. SO HELP YOU GOD.**

The juror shall then take his place in the jury box. **Crim. Code S. 560(5)**  
If the original twenty jurors called by the clerk have been eliminated either by acceptance, challenges or by having been stood aside the judge will direct the clerk to call a further number from the remainder of the panel until the panel is exhausted.

The cards of the jurors stood aside shall be kept by the clerk in the order in which they were called. If the panel is exhausted, they are then called in their original order, and shall be sworn unless challenged by the accused or unless the prosecutor challenges them, or shows cause why they should not be sworn. **Crim. Code S. 570(1)**

Where, before a juror who has been stood aside is sworn, other jurors become available, the prosecutor may require the names of those jurors to be put into and drawn from the box and they shall be challenged, ordered to stand aside or sworn, as the case may be, before the names of the jurors who were originally ordered to stand aside are called again. **Crim. Code S. 570(2)**

## Notes

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Where, the panel is exhausted and a full jury cannot be provided, the court may, at the request of the prosecutor, order the Sheriff or other proper officer forthwith to summon as many persons, whether qualified jurors or not, as the court directs, for the purpose of providing a full jury. Such persons may be summoned by word of mouth and their names added to the general panel. They shall be called, challenged, stood aside or sworn in the same manner as the original panel. **Crim. Code S. 571(1)(2)(3)**

When twelve jurors have been sworn, if any juror still remains standing the clerk shall instruct them to take seats in the body of the courtroom.

Where two or more accused are jointly charged and are to be tried together each is entitled, if he so desires, to the same number of challenges as if he were to be tried alone. Where there are several accused they each may challenge in the order in which they are named in the indictment. **Crim. Code S. 565**

The accused is entitled to twenty peremptory challenges if the offence is high treason or first degree murder. **Crim. Code S. 562(1)**

Where the offence is not high treason or first degree murder but one for which he may be sentenced to imprisonment for more than five years, he is entitled to challenge twelve jurors peremptorily. **Crim. Code S. 562(2)**

An accused who is charged with an offence that is not referred to in subsections (1) or (2) of S. 562 is entitled to challenge four jurors peremptorily. **Crim. Code S. 562(3)**

**GREFFIER AU JURY**

**MEMBRES DU JURY, LORSQUE JE VOUS NOMMERAI,  
LEVEZ-VOUS ET DITES "ASSERMENTÉ" SI VOUS L'AVEZ  
ÉTÉ.**

**(OU "AFFIRMÉ" SI VOUS AVEZ AFFIRMÉ).**

The crown is entitled to four peremptory challenges for all offences and may stand aside up to forty-eight jurors. **Crim. Code S. 563(1)(2)**

The crown or an accused is entitled to any number of challenges for cause as set out in S. 567 of the Criminal Code. (see trial of a challenge for cause following in this book). **Crim. Code S. 567**

The accused may be called upon to declare whether he challenges a juror peremptorily or for cause before the crown is called upon to declare whether the juror is required to stand aside or is challenged peremptorily or for cause. **Crim. Code S. 563(3)**

After twelve jurors have been sworn,

**Clerk to jury:**

**MEMBERS OF THE JURY, AS I CALL YOUR NAME, STAND AND ANSWER “SWORN” IF YOU HAVE BEEN SWORN.**

After twelve jurors have been sworn (or affirmed),

**(if the juror has affirmed instead of being sworn, the above should be varied to ANSWER “AFFIRMED”, IF YOU HAVE BEEN AFFIRMED. After the first juror has answered, the clerk shall then instruct the juror by name to take his seat before calling the name of the second juror. This procedure shall be repeated until twelve have answered.)**



**GREFFIER AU JUGE**

**DOUZE JURÉS ONT ÉTÉ ASSERMENTÉS (SELON LE CAS), VOTRE SEIGNEURIE (OU VOTRE HONNEUR).**

**GREFFIER AU JURY**

**MEMBRES DU JURY, REGARDEZ L'ACCUSÉ ET ÉCOUTEZ L'ACCUSATION. IL EST INCULPÉ SOUS LE NOM DE.....**

**.....  
L'ACCUSÉ A COMPARU À CETTE ACCUSATION, IL A PLAIDÉ NON COUPABLE ET POUR SON PROCÈS S'EST REMIS ENTRE LES MAINS DE DIEU ET DU PAYS, LEQUEL PAYS VOUS REPRÉSENTEZ. VOTRE DEVOIR EST DE DÉCIDER S'IL EST COUPABLE DE L'ACTE CRIMINEL DONT IL EST ACCUSÉ ET D'ÉCOUTER LA PREUVE.**

**Clerk to judge:**

**TWELVE JURORS HAVE BEEN SWORN (or  
ELEVEN JURORS HAVE BEEN SWORN AND  
ONE JUROR HAS BEEN AFFIRMED or as the  
case may be, MY LORD (OR LADY) (OR YOUR  
HONOUR).**

The clerk shall place the cards of all jurors called, except those sworn, back in the box. The cards of those sworn shall be retained by the clerk until the jury has been discharged. The sheriff shall ensure that the jurors occupy the same seats for the duration of the trial and the clerk shall keep their cards in the order in which they were sworn and seated. In the minute book the clerk shall list the names and numbers of the jury sworn in the order in which they were sworn. He shall also note therein the total number of jurors challenged or stood aside by the crown or challenged by the accused.

**Juries Act  
S. 30(3)**

**Clerk to jury:**

**MEMBERS OF THE JURY, LOOK UPON THE  
ACCUSED AND HEARKEN TO HIS CHARGE. HE  
STANDS INDICTED BY THE NAME OF C.....  
D..... AS FOLLOWS:**

**(the clerk shall then read the indictment com-  
mencing with the words, “C ..... D.....  
stands charged .....” eliminating any counts  
to which the accused has pleaded guilty or on  
which the crown is not proceeding.)**

## Notes

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**UPON THIS INDICTMENT HE HATH BEEN ARRAIGNED. UPON HIS ARRAIGNMENT HE HATH PLEADED NOT GUILTY AND FOR HIS TRIAL HATH PUT HIMSELF UPON HIS COUNTRY, WHICH COUNTRY YOU ARE. YOUR CHARGE, THEREFORE, IS TO INQUIRE WHETHER HE BE GUILTY OF THE INDICTABLE OFFENCE CHARGED OR NOT GUILTY, AND TO HEARKEN TO THE EVIDENCE.**

The trial is then ready to proceed.

### **TRIAL OF A CHALLENGE FOR CAUSE**

Where a challenge has been made for a cause defined in section 567 of the Criminal Code the judge may direct that a trial be held to determine the validity of the challenge. If the cause of the challenge is that the name of the juror does not appear on the panel the issue will be determined by the judge alone. If the cause of the challenge is for any of the other defined causes the judge will direct that the two jurors last sworn, or if none have been sworn, two persons present whom the court may appoint for the purpose, shall be sworn to determine whether the ground of challenge is true.

**Crim. Code  
S. 567**

**Crim. Code  
S. 569(1)**

**Crim. Code  
S. 569(2)**

## Notes

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## WHO ENTITLED AND HOW EXERCISED

The prosecutor or the accused is entitled to challenge any number of jurors for cause. **Crim. Code S. 567**

Where the Judge requires it such challenge must be made in writing. (Form 37, C.C.). **Crim. Code S. 568(1)**

## GROUND OF CHALLENGE (ONLY GROUNDS)

**Crim. Code S. 567**

- (a) the name of the juror does not appear on the panel;**
- (b) a juror is not indifferent between the Queen and the accused;**
- (c) a juror has been convicted of an offence for which he was sentenced to death or to a term of imprisonment exceeding twelve months;**
- (d) a juror is an alien, or**
- (e) a juror is physically unable to perform properly the duties of a juror.**

## WHEN MADE

A challenge must be made when the juror comes forward to be sworn and before he is sworn and it may be made before any peremptory challenge has been made. (Whelan v. R., 28 U.C.Q.B., 2)





The challenge may be denied by the other party on the ground it is not true. **Crim. Code S. 568(1)**

## **RIGHTS OF PARTIES**

- (a) Upon the request of the accused or crown, the judge may, in his discretion, ask that a juror he objected to stand aside until it is seen whether a full jury of persons to whom there is no objection on either side can be had without him;**
- (b) Consistently with this the judge may in his discretion, for sufficient cause, further postpone the time of assigning cause, either for the crown or the accused;**
- (c) If the challenge is made by the accused, the crown may stand the challenged juror aside before entering upon, during or after the hearing of the challenge and after verdict given;**
- (d) If made by the accused the challenge cannot be withdrawn by him but must proceed to a verdict;**
- (e) An accused has the right to peremptorily challenge a juror notwithstanding that he has unsuccessfully challenged him for cause.**

## **TRIERS OF THE CHALLENGE**

- 1. By the judge, if the ground of the challenge is that the name of the juror does not appear on the panel. **Crim. Code S. 569(1)****
- 2. Where the ground of a challenge is not one mentioned in subsection (1), the two jurors who were last sworn, or if no jurors have then been sworn, two persons present whom the court may appoint for the purpose, shall be sworn to determine whether the ground of challenge is true. **Crim. Code S. 569(2)****

## Notes

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**Clerk to the two triers trying the challenge:**

**YOU SWEAR THAT YOU SHALL WELL AND TRULY TRY WHETHER G..... H....., ONE OF THE JURORS, IS NOT INDIFFERENT BETWEEN THE QUEEN AND THE ACCUSED (or HAS BEEN CONVICTED OF AN OFFENCE FOR WHICH HE WAS SENTENCED TO DEATH or HAS BEEN CONVICTED OF AN OFFENCE FOR WHICH HE WAS SENTENCED TO A TERM OF IMPRISONMENT EXCEEDING TWELVE MONTHS or IS AN ALIEN or IS PHYSICALLY UNABLE TO PERFORM PROPERLY THE DUTIES OF A JUROR) AND A TRUE VERDICT GIVE ACCORDING TO THE EVIDENCE. SO HELP YOU GOD.**

Where the evidence of a witness is required to be heard by the triers,

**Clerk to witness:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT AND TRIERS SWORN UPON THIS INQUEST SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

Where the triers are unable to agree whether the ground of challenge is true the judge may direct that two other persons be sworn to try the challenge. Where the judge or the triers, as the case may be, find that the ground of challenge is true the juror in question shall not be sworn.

**Crim. Code  
S. 569(4)**

## **RETIREMENT OF JURY TO CONSIDER VERDICT**

Before the jury leaves the courtroom to consider its verdict the constable in charge shall be sworn by the clerk. This applies even where the circumstances of the case make such consideration a mere formality.

**GREFFIER AU CONSTABLE**

**VOUS JUREZ DE GARDER LES MEMBRES DU JURY  
DANS UN ENDROIT COMMUNE ET PRIVÉ, D'EMPÊCHER  
QU'ON LEUR PARLE ET DE NE PAS LEUR PARLER  
VOUS-MÊME SANS L'AUTORISATION DU TRIBUNAL,  
SAUF S'IL S'AGIT DE LEUR DEMANDER S'ILS SONT  
D'ACCORD SUR UN MÊME VERDICT, QUE DIEU VOUS  
SOIT EN AIDE.**

**GREFFIER AU JURY**

**MEMBRES DU JURY, VOUS POUVEZ VOUS RETIRER  
POUR CONSIDÉRER VOTRE VERDICT.**

**LA COUR ATTEND LE VERDICT DU JURY.**

**Clerk to constable:**

**YOU SWEAR THAT YOU WILL KEEP THE MEMBERS OF THIS JURY IN SOME PRIVATE AND CONVENIENT PLACE, YOU SHALL NOT SUFFER ANY PERSON TO SPEAK TO THEM OR ANY OF THEM, NEITHER SHALL YOU SPEAK TO THEM YOURSELF UNLESS IT BE TO ASK THEM WHETHER THEY ARE AGREED UPON THEIR VERDICT, WITHOUT LEAVE OF THE COURT. SO HELP YOU GOD.**

**Clerk to jury:**

**MEMBERS OF THE JURY, YOU MAY RETIRE TO CONSIDER YOUR VERDICT.**

The clerk shall then hand the exhibits to the constable in charge who shall give them to the jury when they enter the jury room. The indictment shall never be given to the jury unless directed to do so by the presiding judge. In cases where there are multiple or complicated charges the judge may direct the clerk to prepare a memorandum for the jury containing only the charges as they appear on the indictment.

Following observations or objections, if any, of counsel to the judge's charge the accused shall be removed from the courtroom and,

**Clerk to court:**

**THE COURT WILL RECESS AWAITING THE VERDICT OF THE JURY.**

**ACCEPTANCE AND RECORDING OF VERDICT**

When the jury returns to the courtroom with its verdict they shall be polled immediately by the clerk and,



**GREFFIER AU JUGE**

**LES JURÉS SONT PRÉSENTS, VOTRE HONNEUR (OU VOTRE SEIGNEURIE, SELON LE CAS).**

**GREFFIER AU JURY**

**MEMBRES DU JURY, EST-CE QUE VOUS ÊTES D'ACCORD SUR UN MÊME VERDICT? EST-CE QUE VOUS TROUVEZ L'ACCUSÉ COUPABLE OU NON COUPABLE TEL QU'INCULPÉ?**

**GREFFIER AU JURY**

**MEMBRES DU JURY, ÉCOUTEZ VOTRE VERDICT TEL QUE LE TRIBUNAL L'A RETENU. VOUS DITES QUE L'ACCUSÉ À LA BARRE EST COUPABLE (OU NON COUPABLE) TEL QU'INCULPÉ; ÊTES-VOUS TOUS D'ACCORD?**

**Clerk to judge:**

**THE JURORS ARE POLLED, MY LORD (MY LADY) (or YOUR HONOUR).**

**Clerk to jury:**

**MEMBERS OF THE JURY, HAVE YOU AGREED UPON YOUR VERDICT? (clerk pauses for reply) DO YOU FIND THE ACCUSED AT THE BAR GUILTY OR NOT GUILTY AS CHARGED?**

The foreman of the jury will give the jury's verdict and the clerk shall endorse it upon the indictment in the following manner: "VERDICT: Guilty or Not Guilty as the case may be)". The clerk shall then date the endorsement and hand the indictment to the judge for his (or her) signature immediately below the endorsement. The judge will return the indictment to the clerk and,

**Clerk to jury:**

**MEMBERS OF THE JURY, HEARKEN TO YOUR VERDICT AS THE COURT HATH RECORDED IT. YOU SAY THE ACCUSED AT THE BAR IS GUILTY (or NOT GUILTY as the case may be) AS WITHIN CHARGED. SO SAY YOU ALL?**

NOTE: See special procedure outlined in following subsection to be followed when the jury returns a verdict of guilty on a second degree murder charge.

In cases where there are multiple charges or included or lesser offences or where there is more than one accused the above proclamations to the jury and recording of the verdict shall be varied accordingly. Where the jury finds the accused guilty on one or more counts and not guilty on others the clerk shall endorse the indictment as follows: "VERDICT: Guilty on count ..... and .....; Not Guilty on count ..... (or as the case may be)". The verdict is then incorporated in the clerk's proclamation to the jury.

**GREFFIER AU JURY**

**MEMBRES DU JURY, LORSQUE JE VOUS NOMMERAI,  
DITES "COUPABLE" SI VOTRE VERDICT EST  
"COUPABLE" OU "NON COUPABLE" SI VOTRE VERDICT  
EST "NON COUPABLE".**

**OU**

**GREFFIER AU JURY**

**MEMBRES DU JURY, LORSQUE JE VOUS NOMMERAI,  
DITES "D'ACCORD" SI VOUS ÊTES D'ACCORD AVEC LE  
VERDICT TEL QUE VOTRE PRÉSIDENT L'A INDiqué,  
OU "EN DÉSACCORD" SI VOUS N'ÊTES PAS D'ACCORD.**



Counsel may ask for the jury to be polled and if the judge so directs,

**Clerk to jury:**

**MEMBERS OF THE JURY, AS I CALL YOUR NAME, ANSWER "GUILTY" IF YOUR VERDICT BE GUILTY, OR "NOT GUILTY" IF YOUR VERDICT BE NOT GUILTY.**

The clerk shall then call the name of each juror who must answer "GUILTY" or "NOT GUILTY" as the case may be. Where the verdict is complicated because of multiple counts the clerk shall substitute the following proclamation for the one above.

**Clerk to jury:**

**MEMBERS OF THE JURY, AS I CALL YOUR NAME, ANSWER "AGREE" IF YOU AGREE WITH THE VERDICT ANNOUNCED BY YOUR FOREMAN OR "DISAGREE" IF YOU DISAGREE.**

### **DIRECTED VERDICTS**

On occasion during the course of a trial, the accused, through his counsel, may express a wish to plead guilty to an included offence for which he is being tried. Crown counsel may agree to this proposal. The presiding judge may or may not instruct the clerk of the court to re-arraign the accused. If re-arraigned, the clerk shall endorse the indictment as follows:

**"On re-arraignment the accused pleads not guilty of ..... guilty of ....."**

He should date it and hand it to the presiding judge for signature. The presiding judge will then charge the jury, directing them that as a matter of law they should find the accused not guilty as charged but guilty of the included offence. Following

## Notes

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## **Directed Verdicts, Continued**

his (or her) charge, he (or she) may or may not direct them, or they may not wish to retire to consider their verdict. When they announce that they are agreed upon a verdict, the clerk should proceed in the normal manner. If they agree with the judge's direction, the clerk will endorse the indictment as follows:

**“On a directed verdict the jury finds the accused not guilty as charged, guilty of .....”**

**Clerk to jury:**

**“HEARKEN TO YOUR VERDICT AS THE COURT HATH RECORDED IT, YOU FIND THE ACCUSED AT THE BAR NOT GUILTY OF ....., GUILTY OF ....., SO SAY YOU ALL?”**

Where an accused is charged with several counts, he may re-elect to plead guilty to one or more of the counts. The same procedure will follow.

## **FIRST DEGREE MURDER AND HIGH TREASON**

In respect to a person convicted of high treason, Criminal Code, s. 669(a), or first degree murder, the sentence shall be imprisonment for life without eligibility for parole until he has served twenty-five (25) years of his sentence.

After the clerk has recorded the verdict,

**Clerk to jury:**

**“HEARKEN TO YOUR VERDICT AS THE COURT HATH RECORDED IT. YOU SAY THE ACCUSED AT THE BAR IS GUILTY AS WITHIN CHARGED. SO SAY YOU ALL?”**



## Notes

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## **SECOND DEGREE MURDER VERDICT**

Where the jury returns a verdict of guilty on a second degree murder charge they may make a recommendation as to the sentence, which they cannot do in a conviction for first degree murder or high treason. After the clerk has recorded the verdict,

**Clerk to jury:**

**“HEARKEN TO YOUR VERDICT AS THE COURT HATH RECORDED IT. YOU SAY THE ACCUSED AT THE BAR IS GUILTY AS WITHIN CHARGED. SO SAY YOU ALL?”**

The judge will then instruct the jury that they may make any recommendation with respect to the number of years he must serve before he is eligible for release on parole. He will advise them that they are not required to make any recommendation but if they do, he will take it into consideration before passing sentence.

**Crim. Code  
S. 670**

The jury will then retire to consider the foregoing. When the jury returns,

**Clerk to foreman of jury:**

**MR. FOREMAN, DO YOU WISH TO MAKE ANY RECOMMENDATION?**

If the answer is “NO”, the clerk shall endorse the indictment, “The jury report that they do not wish to make any recommendation”.

If the answer is “YES”,

**Clerk to foreman of jury:**

**WHAT RECOMMENDATION DO YOU WISH TO MAKE TO HIS LORDSHIP (OR HER LADYSHIP)?**

Upon the foreman replying, the clerk shall endorse on the indictment the recommendation of the jury.

The endorsement shall be dated by the clerk and the indictment handed to the judge for his or her signature. The endorsement shall be noted in the minute book.

## Notes

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## **HUNG JURY**

From time to time the situation arises where a jury is unable to agree upon a verdict.

When the jury returns to the courtroom,

**Clerk to jury:**

**MEMBERS OF THE JURY, HAVE YOU AGREED  
UPON YOUR VERDICT?  
(clerk pauses for reply)**

The foreman of the jury will then reply advising the court that the jury is unable to agree upon a verdict.

NOTE: The judge may send the jury back to give further consideration to the matter, so the clerk should ask directions from the judge before asking the jury if they are unable to agree upon a verdict.

**Clerk to jury:**

**YOUR FOREMAN HAS REPORTED THAT YOU  
ARE UNABLE TO AGREE UPON A VERDICT. SO  
SAY YOU ALL?**

The judge will then discharge the jury. At this time another jury may be selected and the trial commenced again or, as in most cases, the trial is traversed to another sittings of the court.

## Notes

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## **SENTENCE**

After the judge has passed sentence the clerk shall note the sentence in the minute book and endorse it on the indictment. The clerk shall date the sentence and hand the indictment to the judge for his (or her) signature. The clerk shall then complete a certificate of sentence, Form 4.

## **SUSPENDED SENTENCE**

In suspending the passing of sentence the judge will advise the accused that he (or she) is so doing for a specified period upon the accused entering into a recognizance to keep the peace and be of good behaviour and, in addition, to observe certain conditions which he (or she) will lay down. The clerk shall then hand to the judge Form 15, and request that he (or she) indicate thereon the conditions to be imposed. After so indicating, the judge will hand the form back to the clerk and,

Crim. Code  
S. 663

**Clerk to accused:**

**YOU ACKNOWLEDGE YOURSELF TO OWE TO  
HER MAJESTY THE QUEEN THE SUM OF .....  
DOLLARS TO BE MADE AND LEVIED AGAINST  
YOUR GOODS AND CHATTELS, LANDS AND  
TENEMENTS, TO THE USE OF HER MAJESTY  
THE QUEEN, IF YOU FAIL IN THE FOLLOWING  
CONDITIONS:**

**(clerk reads conditions indicated by judge on  
Form 15)**

**ARE YOU CONTENT?**



## Notes

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If the accused answers “NO” the judge will sentence him. If he answers “YES” the judge and the accused will sign the recognizance, Form 15. Where the accused is not required to report to a Probation Officer the judge will likely allow the accused to leave at this time. If the accused is required to so report the clerk shall hand Form 15 to the Probation Officer if he is present or if he is not present shall forward the form to his office and instruct the accused when and where to report. The clerk shall then notify the Probation Office that the accused has been so instructed. When the Probation Office has no further use for Form 15 it shall be returned to the clerk. In any event the form will ultimately be kept by the clerk with the indictment.

### **RECOGNIZANCE TO KEEP THE PEACE**

When an accused has been convicted of an offence and **in addition to any sentence imposed** is required to enter into a recognizance to keep the peace and be of good behaviour for a specified term the clerk shall prepare and have completed Form 14.

### **HOLDING OF A VOIR DIRE**

During the course of a trial it may be necessary for the jury to retire on an occasion when the presiding judge directs that a voir dire be held. After the jury has retired the accused or any other witness who is required to give evidence on the voir dire should be sworn only if they have not been sworn previously in the trial.

**Clerk to accused:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT BETWEEN OUR SOVEREIGN LADY THE QUEEN, (THE ACCUSED AT THE BAR if more than one accused) AND YOU ON THIS ISSUE SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

## Notes

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**Clerk to witness:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT BETWEEN OUR SOVEREIGN LADY THE QUEEN AND THE ACCUSED AT THE BAR ON THIS ISSUE SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

At the conclusion of the evidence on the voir dire and the argument of counsel the trial judge will give his (or her) decision on the voir dire. The jury shall then be returned to the courtroom. While the voir dire is in progress the jury shall be brought into the courtroom before and after each adjournment to be dismissed or sent to the jury room.

**TRIAL OF AN INSANITY ISSUE**

**Crim. Code  
S. 543**

Where it appears that there is sufficient reason to doubt that the accused is, on account of insanity, capable of conducting his defence the presiding judge may direct at any time before the verdict that an issue be tried to determine the matter.

Where a judge alone is hearing the case he (or she) will try the issue and render a verdict. Where the case is being tried before a judge and jury and the case has already been given in charge to the jury, the jury shall be sworn to try the issue as to insanity in addition to the issue on which they are already sworn. If the case has not been given in charge to the jury the clerk shall call twelve jurors from the panel of petit jurors in the normal manner. No challenges are permitted.

**Clerk to jury:**

**IN ADDITION TO THE ISSUE ON WHICH YOU ARE ALREADY SWORN (if such be the case) YOU SWEAR THAT YOU SHALL DILIGENTLY INQUIRE AND TRUE PRESENTMENT MAKE FOR AND ON BEHALF OF OUR SOVEREIGN LADY THE QUEEN WHETHER THE ACCUSED AT THE BAR WHO STANDS HERE INDICTED FOR AN INDICTABLE OFFENCE IS FIT OR IS UNFIT TO STAND HIS TRIAL ON ACCOUNT OF INSANITY, AND A TRUE VERDICT GIVE ACCORDING TO THE EVIDENCE. SO HELP YOU GOD.**

## Notes

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**Clerk to jury:**

**MEMBERS OF THE JURY, AS I CALL YOUR NAME STAND AND ANSWER “SWORN” IF YOU HAVE BEEN SWORN ON THIS ISSUE.**

**Clerk to judge:**

**TWELVE JURORS HAVE BEEN SWORN ON THIS ISSUE, MY LORD (or LADY) (or YOUR HONOUR).**

The trial of the insanity issue shall then proceed. Witnesses when called shall take the witness stand in the normal manner.

**Clerk to witness:**

**YOU SWEAR THAT THE EVIDENCE TO BE GIVEN BY YOU TO THE COURT (AND TO THE JURY SWORN as the case may be) BETWEEN OUR SOVEREIGN LADY THE QUEEN AND THE ACCUSED AT THE BAR ON THIS ISSUE SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO HELP YOU GOD.**

After all the evidence on the insanity issue has been given and following the judge’s charge, the constable in charge of the jury shall be sworn in the usual manner and the jury shall retire to consider its verdict. When they return to the courtroom they shall be polled by the clerk.

**Clerk to jury:**

**MEMBERS OF THE JURY, HAVE YOU AGREED UPON YOUR VERDICT ON THIS ISSUE? (clerk pauses for reply) DO YOU FIND THE ACCUSED AT THE BAR IS FIT OR IS UNFIT TO STAND HIS TRIAL ON ACCOUNT OF INSANITY?**



## Notes

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Where the jury finds the accused is “fit” the clerk shall endorse the indictment as follows:

“On the ..... day of .....19..... at ..... o'clock the jury finds the accused is fit to stand his trial.”

Where the jury finds the accused is “unfit” to stand his trial the clerk shall endorse the indictment as follows:

“On the ..... day of .....19..... at ..... o'clock the jury finds the accused is unfit to stand his trial on account of insanity.”

“It is hereby ordered that he C..... D..... be kept in strict custody in the provincial jail or detention centre for the County (or District) of ..... until the pleasure of the Lieutenant-Governor of Ontario is known.”

The clerk shall then date and hand the indictment to the judge for his (or her) signature on both the endorsements. The foregoing endorsement shall also be made on the certificate of sentence, varied to suit the circumstances.

## **County Judges' Criminal Court**

A thorough knowledge of the appropriate proclamations, the oaths, the arraignment of the accused, the recording of the sentence and the general instructions applicable to all courts should enable a clerk of the court and a sheriff to perform their duties in this court without special instructions applicable to such a court.

One situation does bear special mention however. After the identity of the accused has been established as set out on pages 32 and 33 and where the accused had previously elected to be tried by a court composed of a judge and jury but has since indicated that he desires to re-elect, and counsel for the crown consents,

### **Judge to accused:**

**YOU HAVE ELECTED OR ARE DEEMED TO HAVE ELECTED TO BE TRIED BY A COURT COMPOSED OF A JUDGE AND JURY. DO YOU NOW ELECT TO BE TRIED BY A JUDGE WITHOUT A JURY?**

## Notes

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**Accused to judge:**

**BY A JUDGE WITHOUT A JURY.**

The clerk will then close the court as a general sessions court and open the court as a county (or district) judge's criminal court.

The trial then proceeds as in the court of general sessions except that all proceedings with reference to the jury are, obviously, omitted.

## Notes

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# **CIVIL TRIALS**

## **With a Jury**

NOTE: During the choosing of or administering of the oath to a jury the clerk shall never leave his place. The practice of some clerks standing in front of the jury box at these times shall be discontinued.

### **CHOOSING A JURY**

A roll call of the petit jury panel by the clerk or the sheriff usually takes place before the court opens although this may vary depending upon the circumstances in a particular court or on the order in which the presiding judge may wish to dispose of the business of the court.

As in criminal trials, at this time, inquiry should be made to ascertain that every juror is under sixty-nine years of age and understands the English language.

When the court has been opened,

**Clerk to jurors:**

**MEMBERS OF THE JURY, AS YOUR NAME IS CALLED YOU WILL COME FORWARD AND TAKE YOUR PLACE IN THE JURY BOX (clerk shall indicate jury box by pointing to same) IN THE ORDER IN WHICH YOU HAVE BEEN CALLED.**



## Notes

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The clerk, having placed all the jurors' cards in the box, shall shake the box and draw a card. Reading aloud the name and particulars on the card, the clerk shall allow enough time for the juror to reach his place in the jury box and for the counsel to write down the particulars. This shall be repeated until six jurors have been called. The clerk shall place the cards face up on the desk in the order in which they have been taken from the box.

**Juries Act  
S. 30(2)**

**Clerk to counsel for plaintiff:**

**MR. .... YOUR FIRST CHALLENGE FOR  
THE PLAINTIFF, IF ANY.**

If counsel for the plaintiff challenges a juror the juror's card shall be removed from its place and put to one side and the clerk shall direct the juror to take a seat in the body of the courtroom. Another juror shall then be called and the card of the new juror shall be placed in the vacant space.

**Clerk to counsel for defendant:**

**MR. .... YOUR FIRST CHALLENGE FOR  
THE DEFENCE, IF ANY.**

The plaintiff and the defendant are each allowed four challenges and the clerk shall proceed in the above manner until each party has exhausted his challenges or until they do not wish to exercise any further challenges if the same are not exhausted. If there is more than one plaintiff or more than one defendant, the plaintiffs as a group or the defendants as a group must join in their four challenges. Where there is a multiplicity of parties, the responsibility as to the order of challenging as between plaintiffs, and defendants, who are separately represented, or in any other matter in regard to challenges, shall rest with the respective counsel. In any event the judge will settle all disputes with respect to the challenges.

**Juries Act  
S. 37**

## Notes

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**CHALLENGES TO A JURY IN A CIVIL TRIAL****(1) Challenges for lack of qualifications****Juries Act  
S. 36****(2) Peremptory challenges**

Either party may challenge peremptorily any 4 of the jurors drawn to serve on the trial.

**Juries Act  
S. 37****(3) Discharge by judge of a juror sworn****(a) for incapacity for any cause;****(b) for interest in the result of the proceeding;****(c) is a relative within the degree of first cousin  
of any of the parties;**

in which case the judge may direct the trial to proceed on such terms as he deems just with 5 jurors and the verdict or answer given by the jury must be unanimous.

**Jud. Act  
S. 65**

## Notes

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The jury shall be sworn together as they stand in the jury box. They shall each be handed the Book by the constable in charge,

**Clerk to jury:**

**YOU SWEAR THAT YOU SHALL WELL AND TRULY TRY THE ISSUES JOINED BETWEEN THE PARTIES AND A TRUE VERDICT GIVE ACCORDING TO THE EVIDENCE. SO HELP YOU GOD.**

**Clerk to jury:**

**MEMBERS OF THE JURY, AS I CALL YOUR NAME STAND AND ANSWER "SWORN" IF YOU HAVE BEEN SWORN.**

**(After the first juror has answered, the clerk shall instruct the juror by name to take his seat before calling the name of the second juror. This procedure shall be repeated, until six have answered.)**

**Clerk to judge:**

**SIX JURORS HAVE BEEN SWORN, or AFFIRMED) MY LORD (or LADY) (or YOUR HONOUR) (or FIVE JURORS HAVE BEEN SWORN AND ONE AFFIRMED, OR AS THE CASE MAY BE).**

The clerk shall place the cards of all jurors challenged back in the box. The cards of those sworn shall be retained by the clerk until the jury has been discharged and shall be kept in the order in which the jurors were sworn and seated in the jury box. In the minute book the clerk shall list the names and numbers of the jury sworn in the order in which they were sworn. He shall also note therein the number of jurors challenged by each party.

**Juries Act  
S. 30(3)**



## Notes

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## **RETIREMENT OF JURY TO CONSIDER VERDICT**

Before the jury leaves the courtroom to consider its verdict the constable in charge shall be sworn by the clerk.

**Clerk to constable:**

**YOU SWEAR THAT YOU WILL KEEP THE MEMBERS OF THIS JURY IN SOME PRIVATE AND CONVENIENT PLACE, YOU SHALL NOT SUFFER ANY PERSON TO SPEAK TO THEM OR ANY OF THEM, NEITHER SHALL YOU SPEAK TO THEM YOURSELF UNLESS IT BE TO ASK THEM WHETHER THEY ARE AGREED UPON THEIR VERDICT, WITHOUT LEAVE OF THE COURT. SO HELP YOU GOD.**

**Clerk to jury:**

**MEMBERS OF THE JURY, YOU MAY RETIRE TO CONSIDER YOUR VERDICT.**

The clerk shall then hand the exhibits and the copy of the questions that the judge has directed the jury to answer to the constable in charge who shall give them to the jury when they enter the jury room. The record shall never be given to the jury unless the presiding judge otherwise directs. Following observations or objections, if any, to the judge's address to the jury,

**Clerk to court:**

**THE COURT WILL RECESS AWAITING THE VERDICT OF THE JURY.**

## Notes

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## **ACCEPTANCE AND RECORDING OF VERDICT**

It is necessary for five of the six jurors to agree upon each answer to each question submitted to the jury or upon a general verdict, as the case may be, before a proper verdict is constituted. When the jury returns to the courtroom with its verdict they shall be polled immediately by the clerk, and

**Judicature Act  
S. 64(1)**

**Clerk to judge:**

**THE JURORS ARE POLLED, MY LORD (or  
LADY) (or YOUR HONOUR).**

**(i) Where the jury has been directed to answer  
questions,**

**Clerk to jury:**

**MEMBERS OF THE JURY, HAVE YOU AN-  
SWERED THE QUESTIONS SET BY HIS LORD-  
SHIP (or HER LADYSHIP) (or HIS HONOUR)?**

If the answer is "YES" the foreman of the jury shall hand to the constable the answers to the questions. The constable shall then hand the answers to the clerk. The clerk shall hand the answers to the judge for his (or her) scrutiny and then read aloud the questions and the answers.

**Clerk to jury:**

**MEMBERS OF THE JURY, ARE THEY YOUR  
ANSWERS?**

**(ii) Where the jury has been directed to return a  
general verdict,**



## Notes

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**Clerk to jury:**

**MEMBERS OF THE JURY, HAVE YOU AGREED UPON YOUR VERDICT? (clerk pauses for reply of foreman) DO YOU FIND FOR THE PLAINTIFF OR DO YOU FIND FOR THE DEFENDANT?**

**(clerk pauses for reply of foreman).**

In most cases the judge will have instructed the jury to assess the damages of the plaintiff notwithstanding that they may find against the plaintiff. In such cases and also in cases where liability has been admitted and the jury is only required to assess the damages,

**Clerk to jury:**

**AT WHAT AMOUNT DO YOU ASSESS THE TOTAL DAMAGES OF THE PLAINTIFF?**

The foreman of the jury shall answer and the judge will endorse his (or her) judgment upon the record and hand the record to the clerk. The clerk shall then note the judgment in the minute book.

## **Without a Jury**

A thorough knowledge of the appropriate proclamations, the oaths and the general instructions and forms in the book applicable to all courts should enable a clerk of the court and a sheriff to perform their duties in a non-jury court without special instructions applicable only to such a court.

The fact that no jury or accused person is present in a non-jury court does not entitle clerks of the court or sheriffs to relax their efforts to maintain the same high standard of dignity and efficiency as in criminal and civil jury courts.

## Notes

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## MISCELLANEOUS

### Granting Bail

For the purposes of this book no attempt is made to include herein all the situations when persons may be granted bail. This section should, however, form a basis that will enable a clerk in a court to determine the procedural requirements for those situations with which he is most likely to be confronted.

An accused who is in custody pending or during his trial may be admitted to bail. The bail may be granted upon the recognizance of the accused alone or he may be called upon to enter into a recognizance with one or more sureties or deposit.

If the accused is to be granted bail in open court on his own recognizance without sureties or deposit the clerk shall instruct him to stand and,

#### **Clerk to accused:**

**YOU ACKNOWLEDGE THAT YOU OWE TO HER MAJESTY THE QUEEN THE SUM OF ..... DOLLARS TO BE MADE AND LEVIED AGAINST YOUR GOODS AND CHATTELS, LANDS AND TENEMENTS, TO THE USE OF HER MAJESTY THE QUEEN IF YOU FAIL TO APPEAR BEFORE THE PRESIDING JUDGE AT THE TIME AND PLACE FIXED FOR YOUR TRIAL AND TAKE YOUR TRIAL UPON THE INDICTMENT FOUND AGAINST YOU. IF YOU DO APPEAR AS AFORESAID AND DO NOT DEPART THE SAID COURT WITHOUT LEAVE, THE SAID RECOGNIZANCE IS VOID. OTHERWISE IT STANDS IN FULL FORCE AND VIRTUE. ARE YOU CONTENT? (the accused must answer "yes")**

The clerk shall then complete Form 10 and have the presiding judge and the accused sign in the appropriate place.



## Notes

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If an accused is to be granted bail on a recognizance entered into with one or more sureties or deposit the clerk shall complete the admission to bail form, Form 10, and hand the same to counsel for the accused. Counsel must then take the necessary steps before a justice of the peace or provincial court judge. If the accused fails to appear or does not remain in attendance the presiding judge may direct that a warrant, Form 7, be issued for his arrest.

## **Renewing Bail**

Where an accused is on bail and it becomes necessary to bind him over to another sittings of the court,

**Clerk to accused:**

**ARE YOU CONTENT TO BE BOUND IN THE SAME TERMS IN WHICH YOU ARE NOW BOUND FOR YOUR APPEARANCE AT THE NEXT SITTINGS OF (clerk names the court)? (the accused must answer "yes")**

**Clerk to sureties if any:**

**ARE YOU CONTENT TO BE BOUND IN THE SAME TERMS IN WHICH YOU ARE NOW BOUND FOR THE APPEARANCE OF THE ACCUSED AT THE NEXT SITTINGS OF (clerk names the court)? (each surety must answer "yes")**

## Notes

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## **Forfeiture of Recognizance (Estreat of Bail)**

Where a person has entered into a recognizance with or without sureties and fails to comply with a condition of the recognizance, the presiding judge may direct the clerk to take the necessary steps toward the forfeiture of the recognizance.

**Crim. Code  
S. 704**

If the condition of the recognizance with which an accused has not complied is that he failed to appear to take his trial or that he failed to remain in attendance the clerk shall

- (a) call the name of the accused once in open court and
- (b) direct the constable stationed at the door of the courtroom to call the name of the accused three times in the corridor immediately outside of the courtroom. If such be the case, the constable shall address the court and report in an audible voice "NO RESPONSE". If the clerk has had prior knowledge that the accused is not likely to appear it is a good practice for the clerk to supply the constable in advance with a memorandum containing the name of the accused and the answer and method of answering likely to be required of the constable; and
- (c) complete the certificate of default on the recognizance. (See section 704 of the Criminal Code and Form 29 thereof.)

The counsel for the crown or the clerk shall then request the presiding judge to fix a time and place for the hearing of an application for the forfeiture of the recognizance. The time so fixed should be sufficiently advanced to allow time for the clerk to complete and mail the notice of hearing, Form 11, to the accused and each surety, if any, at least ten days prior to the time fixed. The notice should be sent by registered mail to the respective addresses as shown in the recognizance.

**Crim. Code  
S. 705**

Where the accused and the sureties do not appear upon the hearing of the application the presiding judge may direct the clerk to take the following steps:

- (a) call the name of the accused once in open court and
- (b) direct the constable stationed at the door of the courtroom to call the name of the accused three times in the corridor immediately outside of the courtroom. If such be the case, the constable shall address the court and report in an audible voice "NO RESPONSE". The clerk shall then make the following proclamations:



## Notes

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**Clerk to body of the court:**

**. . . (name the accused) . . . COME FORTH AND ANSWER TO THE CHARGE PREFERRED AGAINST YOU OR YOU FORFEIT YOUR RECOGNIZANCE. (the clerk shall repeat this proclamation three times)**

**. . . (name the sureties) . . . BRING FORTH THE BODY OF . . . (named the accused) . . . TO ANSWER THE CHARGE PREFERRED AGAINST HIM AS YOU UNDERTOOK OR YOU FORFEIT YOUR RECOGNIZANCE. (the clerk shall repeat this proclamation three times)**

If the accused and the sureties still do not appear and the presiding judge so directs,

**Clerk to body of the court:**

**THIS COURT DOTH ORDER THAT THE RECOGNIZANCE IN THE QUEEN AGAINST . . . (name the accused) . . . BE AND THE SAME IS HEREBY FORFEITED.**

The clerk shall then make the appropriate entry in the minute book and complete the order of forfeiture, Form 12.

**Defaulting Witness — Bench Warrant**

Where a witness does not appear under his subpoena and the presiding judge so directs the clerk shall call the name of the witness in open court. If he does not answer, the constable stationed at the door of the courtroom shall step outside the door and call the name of the witness three times. If he does not answer the constable shall address the court and report in an audible voice "NO RESPONSE".

## Notes

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**Clerk to body of the court:**

**. . . (name the witness) . . . COME FORTH AND  
GIVE EVIDENCE IN THE QUEEN AGAINST  
C..... D..... (or as the case may  
be) PURSUANT TO YOUR SUBPOENA. (the  
clerk shall repeat this proclamation three times)**

If the witness still does not answer, the judge may order a bench warrant to be issued. The clerk shall prepare the bench warrant, Form 5 as applicable, and hand it to the sheriff for execution.

**Crim. Code  
S. 633  
Rules of  
Practice 275**



## Notes

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## Court Room Procedure

Before the court opens the sheriff shall arrange for the panel to take its place in the jury box. If the number (7) is incomplete, the sheriff shall report the deficiency to the presiding judge and request directions in regard to proceeding with the number of panel members present or filling the vacancy or vacancies by calling other persons. The sheriff should provide a list of Public Institutions in the County (or District) which are maintained in whole or in part by public funds for the convenience of the judge and Inspection Panel.

When the directions of the judge have been complied with, the sheriff shall direct the panel to select a chairman.

Upon being advised of the selection of a chairman the sheriff shall note the name on a card and hand it and a copy of the panel list to the court clerk. The sheriff and the judge will then enter the court room and the court will be opened by the clerk using the regular county court opening proclamation.

**OYEZ, OYEZ, OYEZ: ALL PERSONS HAVING  
ANYTHING TO DO BEFORE HER MAJESTY'S  
JUDGE AT THIS SITTINGS OF THE COUNTY  
COURT (or DISTRICT) of ..... DRAW  
NEAR AND GIVE YOUR ATTENDANCE AND  
YOU SHALL BE HEARD. GOD SAVE THE  
QUEEN.**

## Notes

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The clerk will hand the panel list to the judge and upon being directed by the judge to proceed, will address the panel as follows:

**MEMBERS OF THE PUBLIC INSTITUTIONS INSPECTION PANEL, PLEASE ANSWER PRESENT AS YOUR NAME IS CALLED.**

After polling the panel the clerk will again address the panel, as follows:

**MEMBERS OF THE PANEL, HAVE YOU SELECTED A CHAIRMAN?**

The clerk will request the chairman to stand and, after a constable has placed a Bible in the right hand of the chairman swear the Chairman as follows:

**YOU ....., SWEAR THAT YOU WILL FAITHFULLY FULFILL YOUR DUTIES AS CHAIRMAN (or CHAIRWOMAN) OF THIS PUBLIC INSTITUTIONS INSPECTION PANEL FOR THE COUNTY (or DISTRICT) OF ..... AND TRUE PRESENTMENT MAKE OF ALL INSPECTIONS CARRIED OUT DURING THE PRESENT SITTINGS OF THIS COURT. SO HELP YOU GOD.**

The remaining members of the panel shall then be sworn together as they stand in the jury box. They shall each be handed a Bible by a constable and be sworn by the clerk as follows:

**THE SAME OATH YOUR CHAIRMAN (or CHAIRWOMAN) HAS TAKEN ON HIS (or HER) PART, YOU AND EVERYONE OF YOU SWEAR THAT YOU SHALL WELL AND TRULY OBSERVE AND KEEP ON YOUR PART. SO HELP YOU GOD.**

NOTE: A member of the Inspection Panel may be sworn or affirmed.



## Notes

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The clerk will report to the judge as follows:

**THE PUBLIC INSTITUTIONS INSPECTION PANEL IS SWORN, YOUR HONOUR, (or six members of the Public Institutions Inspection Panel have been sworn and one affirmed or as the case may be).**

The judge will then instruct the panel on its duties. After the judge has completed his (or her) instructions, the clerk will swear the constable in charge of the Inspection Panel.

**Clerk to constable:**

**YOU SWEAR THAT YOU WILL ATTEND THE MEMBERS OF THIS INSPECTION PANEL DURING THEIR INSPECTIONS AND WILL RETURN THEM TO THIS COURT AFTER THEY HAVE FULFILLED THEIR DUTIES. SO HELP YOU GOD.**

The Inspection Panel will then leave the courtroom accompanied by the constable.

When the panel has completed its duties and has prepared a formal report covering its activities, a court will be convened for the reception of such report.

After the court has been opened the clerk will address the panel as follows:

**MEMBERS OF THE PUBLIC INSTITUTIONS INSPECTION PANEL, HAVE YOU ANY REPORT TO MAKE TO THE COURT?**

## Notes

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The chairman will then rise and answer as follows:

**WE HAVE.**

The constable will then be handed the report by the chairman and deliver it to the clerk who will hand it to the judge for his (or her) perusal. When he has read the report the judge will have it returned to the chairman to read to the court or as the judge may otherwise direct.

The judge will then address the Public Institutions Inspection Panel and discharge them. The original report shall be filed with the clerk of the county (or district) court as a public document and shall be available for public inspection. A copy of the report shall be forwarded to the Attorney General by the judge.

The sheriff should have a typist available to the Inspection Panel after they have completed their inspections for the typing of their report.

The report should be in the following or similar form:

**'To the presiding Judge of the County (or District) of .....**



## Notes

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**Your Honour:**

**We, the Public Institutions Inspection Panel  
for the County (or District) of ....., beg  
to report on our inspection of Public Institutions.**

**We have inspected the following public institu-  
tions and found that:**

(Here list the institutions inspected and the  
findings and recommendations for each)

**DATED at ....., this ..... day of ..... 19.....**

**“JOHN SMITH”  
Chairman**

## Notes

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## Terms in Common Use in the Courts

AB INITIO	—from the beginning
AD HOC	—for this special purpose
AD LITEM	—for the purpose of this litigation
AUTREFOIS ACQUIT	—formerly acquitted
AUTREFOIS CONVICT	—formerly convicted
BONA FIDE	—in good faith
DE BENE ESSE	—in anticipation of future need
DELIVERANCE	—the jury's verdict
DE NOVO	—anew; a second time
DUCES TECUM	—bring documents, etc., with you
EX OFFICIO	—by virtue of the office
EX PARTE	—for one party without notice to anyone adversely affected
FEE SIMPLE	—an absolute and unqualified estate
FI.FA. (FIERI FACIAS)	—a writ commanding the sheriff to collect judgment from debtor's goods
GENERAL GAOL DELIVERY	—a writ giving power to judge to deliver the jail (try every prisoner)
HABEAS CORPUS	—the writ directing the sheriff to bring a person before a court
IN CAMERA	—when a hearing is held in judge's private room or in cleared courtroom
IN FUTURO	—in the future
INTER ALIA	—among other things
IPSO FACTO	—by the mere fact



## Notes

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LACHES	—slackness; delays
MANDAMUS	—order directed to a public authority compelling performance of a particular act
MESNE	—intermediate; intervening
MUTATIS MUTANDIS	—same as, with necessary changes in detail
NISI	—effective unless something happens in the interim
NISI PRIUS	—the power to hold a court for the trial of civil matters
NOLLE PROSEQUI	—unwilling to prosecute further
NON COMPOS MENTIS	—of unsound mind
NULLA BONA	—no goods upon which to collect
NUNC PRO TUNC	—now for then
OBITER	—in passing; incidentally
OYER AND TERMINER	—the power of judge to “inquire, hear and determine” all treasons, felonies and misdemeanours
PERSONA DESIGNATA	—a person as an individual as opposed to a member of a group
PENDENTE LITE	—while litigation is pending
PO.SE. (PONIT SE SUPER PATRIAM)	—he places himself upon the country; he pleads not guilty
PRECEPT	—a command in writing
PRESENTMENT	—written statement of grand jury, without considering an indictment relating thereto, that public offence has been committed
PRIMA FACIE	—on the face of it
QUANTUM MERUIT	—as much as he deserved
QUASI	—analogous to
QUID PRO QUO	—the giving of one thing for another
RES IPSA LOQUITUR	—the thing speaks for itself

## Notes

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RES JUDICATA	—a thing previously adjudged
SINE DIE	—without a day being set
TALESMAN	—person summoned from bystanders to act as juror
TORT	—wrongful act for which an action will lie
TORT-FEASOR	—one who commits a tort
ULTRA VIRES	—beyond the powers conferred
VIVA VOCE	—by word of mouth
VOIR DIRE	—a trial within a trial

## APPENDIX OF FORMS

In this Appendix forms 4 to 16, inclusive, are considered to be those that the clerk in the court will most likely be called upon to produce in court. Most have been adapted from those contained in the Criminal Code. Section 773(1) thereof stipulates that forms varied to suit the case or forms to the like effect shall be good, valid and sufficient in the circumstances for which, respectively, they are provided. Thus the validity of the forms in this appendix is not likely to be challenged. For cases dealing with the use of forms see page 1613 of Tremear's Annotated Criminal Code, 6th Edition.

A supply of these forms, drafted to apply to each particular court, should be kept in the desk of the clerk in the courtroom. In each case where the use of a form is required it should be completed on a typewriter but if the time and opportunity for this is not available the clerk shall complete the form by hand. The validity of the form will not be affected thereby.



## Notes

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FORM 1

Counsel Slip

A supply of these forms shall be available in every courtroom. It is the responsibility of the clerk to ensure that one of these slips has been completed and is ready to hand to the judge before the start of each case. They may be completed by the counsel present in the courtroom in either pencil or ink. The main consideration is that one is completed for each case.

<div>COUNSEL SLIP</div>		
<div>Style of Cause</div>	<div>For { Crown Plaintiff Applicant }</div>	<div>For { Accused Defendant Respondent }</div>

(PLEASE PRINT PLAINLY)

## Notes

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**FORM 2**  
**Minute Book**  
(Sample Page)

Monday, October 5th, 1964

Before the Hon. Justice JOHNSON Reporter: D.  
MOFFAT 10:02 Court opened

REGINA vs. WALTER WATSON

Mr. A. B. Carter, Q.C. for the Crown; Mr. D. Fuller  
for accused

10:05 Accused arraigned—FIRST DEGREE MURDER—Plea: Not  
Guilty

10:08 Jurors called and sworn:

1.....26	4.....39	7.....6	10.....15
2.....18	5.....42	8.....17	11.....27
3.....6	6.....12	9.....40	12.....31

Crown challenged 1; stood aside 6; Defence challenged 9

10:25 His Lordship opened to jury. 10:30 Mr. Carter opened to jury.

10:40 All witnesses except Dr. Tate excluded.

10:42 P/C GEORGE HARRIS, sworn & examined. 10:50 cross-  
examined.

11:00 Voir dire—jury retired.

11:08 P/C IVAN JONES, sworn & examined. 11:14 cross-examined.

11:16 Argument on voir dire. 11:18 Evidence ruled inadmissible.  
11:19 Jury returned.

11:20 KENNETH LOCK, sworn & examined, 11:25 cross-examined.

11:29 Two constables sworn in charge of jury. 11:30 to 11:40  
Court recessed.

11:41 MURRAY NOAKES, sworn as interpreter (German).

11:42 OSCAR POZEN, sworn & examined. 11:56 cross-examined.

12:15 Crown's case closed. 12:16 Mr. Fuller opened to jury.

12:20 QUINCY ROSS, sworn & examined. 12:40 cross-examined

12:55 Accused's case closed. 12:56 Court adjourned until 2:30.



## Notes

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2:30 Court resumed and jury polled.  
2:32 DR. SAMUEL TATE, sworn & examined in reply. 2:40 cross-examined.  
2:42 Mr. Fuller addressed Jury. 3:00 Mr. Carter addressed jury.  
3:20 His Lordship charged Jury.  
4:05 Two constables sworn in charge of Jury. 4:06 Jury retired.  
4:07 Objections to charge by Mr. Fuller. 4:15 by Mr. Carter.  
4:20 Jury returned for further directions. 4:25 Jury retired.  
4:45 Jury returned and were polled.  
4:48 VERDICT: Not Guilty as charged. 4:55 Accused & jury discharged.  
5:00 Court adjourned until tomorrow at 10:00 a.m.

NOTE: While the above is merely a sample of the minutes in a criminal trial it does illustrate most of the matters, with necessary variations, to be inserted in the minutes of the proceedings in any court. Because of their absence from the above sample, the following points should be noted:

- the counts of an indictment upon which an accused has been arraigned shall be set out in full;
- where a motion for any purpose is made at a trial, the fact that the motion was made and the result shall be noted;
- exhibits shall not be listed in the minute book but shall be shown on an official exhibit list, Form 3.

NOTE: The entries in the Minute Book must be made in the Courtroom at the time. The practice of making the entries on paper and afterwards having them typed and put in the Minute Book shall be discontinued.

## Notes

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## Exhibit List & Exhibit Stamp (Samples)

## Toronto.....NON.....Jury Sitings

**The Honourable Mr. Justice** Johnson      **Writ No.** 9923/63  
Smith      **vs**      Brown

List of exhibits put in at the trial of this action at Toronto  
on the 13th 14th 15th and 16th day(s) of April 19<sup>64</sup>

PROPERTY OF Plff. Deft.		NO.	Description of Exhibit
	✓	1	Letter 16-1-62 plaintiff to defendant
✓		2	Agreement for sale 27-1-62
✓		3	Letter 28-1-62 defendant to plaintiff
Court		4	Notice of Trial (see file 9923-63)
✓		5	Model of tractor (in vault of No. 2 Court)
	✓	6	Letter (carbon copy) 1-3-62 Harris & Co. to defendant
	✓	7	Contract 18-1-62 between plaintiff and defendant
	✓	8	Letter 7-4-62 plaintiff to Harris & Co.
✓		9	Stock Certificate #978253A7—Continental Trucking
	✓	10	Memorandum 12-4-62 plaintiff to G. Black
	✓	11	Letter 12-5-62 plaintiff to defendant
		12	
		13	
		14	
		15	
		16	
		17	

**No. 10**

**IN THE SUPREME**

**COURT OF ONTARIO**

Smith ..... v ..... Brown

**NOTE: Envelopes are now supplied with exhibit list printed on them.**

**IN THE SUPREME  
COURT OF ONTARIO**

Smith                      v                      Brown

**This Exhibit is produced by the**  
**DEFT** ..... **and is the property**  
of the ..... **DEFT** ..... **this** 15  
**day of** ..... **APRIL** ..... **19** 64

"A. M. Harrison"

### Clerk of Court





**FORM 4****Certificate of Conviction/Acquittal  
Sentence/Discharge****COURT**

CANADA,  
Province of Ontario,  
County (or District) of  
.....

BEFORE

{ the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge  
.....

REGINA

vs.

....., Accused.

THIS IS TO CERTIFY that on the ..... day of ..... 19....

at ..... the above-mentioned accused was tried

**City or Town**

upon the charge that .....,

**Set out offence in full**

was convicted of the said offence and the following punishment was  
imposed upon him, namely, .....

**OR**

and was found not guilty of the said offence.

**OR**

a material witness namely, ..... who has  
been held in custody in the above case

**(AS THE CASE MAY BE)**

was discharged in open court by the presiding judge

GIVEN UNDER MY HAND AND  
THE SEAL OF THE SAID COURT,

**( S E A L )**

this ..... day of ..... 19....

.....  
Clerk of the Court

at .....

## Notes

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**FORM 5****Warrant for Witness — Criminal Trial**

This form (commonly called a Bench Warrant) shall be used in criminal cases when a person intended to be called as a witness fails to attend the trial. The form has been adapted from Form 12 of the Criminal Code and shall be issued pursuant to sections 626 & 633 thereof.

**COURT**

CANADA,  
Province of Ontario,  
County (or District) of  
.....

BEFORE

the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge  
.....

REGINA

vs.

....., Accused.

TO THE PEACE OFFICERS IN THE ..... OF .....  
City or Town

AND THE SAID COUNTY (or DISTRICT):

Whereas ..... has been charged with ..... and  
Accused Offence

whereas it has been made to appear that ..... herein-  
Witness  
after called the witness, is likely to give material evidence for the  
.....and that the said witness

**Crown or Accused**

- (a) will not attend unless compelled to do so;
- (b) is evading service of a subpoena;
- (c) was duly served with a subpoena and has neglected to attend (or to remain in attendance **as the case may be**) at the time and place appointed therein; or
- (d) was bound by a recognizance to attend and give evidence and has neglected to attend (or to remain in attendance **as the case may be**).
- (e) ..... refused to be sworn

THIS IS THEREFORE TO COMMAND YOU, in Her Majesty's name, to bring the said witness before ..... on the ..... day of .....  
Court or Judge  
..... 19 ..... at ..... o'clock in the ..... noon at .....  
(or as soon as can be **if such be the order**) to give  
City or Town  
evidence concerning the said charge.

DATED at ..... this ..... day of ..... 19 .....

( S E A L )

Clerk of the Court  
at .....



## Notes

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**FORM 6**

**Warrant for Arrest of a Defaulting Witness  
(Rule 275)**

Province of Ontario

County of .....

To the Sheriffs and other peace officers in the Province of Ontario.

Whereas proof has been made before me that **H.N.** was duly subpoenaed to give evidence on behalf of the plaintiff (**or as the case may be**), in this cause at the sittings of (**as the case may be**) which commenced on the ..... day of ..... 19.....; that the presence of the said **H.N.** is material to the ends of justice; and that the said **H.N.** has failed to attend in accordance with the requirements of the subpoena;

I command you to arrest the said **H.N.** and bring him before me at the said sittings, or before such other judge as may be presiding thereat, to give evidence in the said cause, or if the court is not then sitting or if the said **H.N.** is found in a county other than in which the court is sitting and cannot be brought forthwith before the court, to deliver him to a provincial correctional institution or other secure facility, there to be detained until he can be brought before the court.

Given under my hand, this ..... day of ..... 19.....,  
at .....

.....  
Judge

## Notes

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## FORM 7

## Warrant for Accused

Canada,  
Province of  
(territorial division)

},  
, }

To the peace officers in the said (territorial division):

This warrant is issued for the arrest of A.B., of \_\_\_\_\_, (occupation) \_\_\_\_\_, hereinafter called the accused.

Whereas the accused has been charged that (set out briefly the offence in respect of which the accused is charged);

And whereas;\*

1. there are reasonable and probable grounds to believe that it is necessary in the public interest to issue this warrant for the arrest of the accused [455.3(4); 456.1(1)];

2. the accused failed to attend court in accordance with the summons served upon him [456.1(2)];

3. an (appearance notice or promise to appear or a recognizance entered into before an officer in charge) (delete whichever are inapplicable) was confirmed and the accused failed to attend court in accordance therewith [456.1(2)];

4. it appears that a summons cannot be served because the accused is evading service [456.1(2)];

5. the accused was ordered to be present at the hearing of an application for a review of an order made by a justice and did not attend the hearing [457.5(5); 457.6(5)];

6. there are reasonable and probable grounds to believe that the accused has violated or is about to violate the (promise to appear or undertaking or recognizance) (delete whichever are inapplicable) upon which he was released [458(1); 459(5); 608(6)];

7. there are reasonable and probable grounds to believe that the accused has since his release from custody on (a promise to appear or an undertaking or a recognizance) (delete whichever are inapplicable) committed an indictable offence [458(1); 459(5); 608(6)];

8. the accused was required by (an appearance notice or a promise to appear or a recognizance entered into before an officer in charge or a summons) (delete whichever are inapplicable) to attend at a time and place stated therein for the purposes of the **Identification of Criminals Act** and did not appear at that time and place [453.4; 455.6];

9. an indictment has been found against the accused and the accused has not appeared or remained in attendance before the court for his trial [526];

10. \*\*

This is, therefore, to command you, in Her Majesty's name, forthwith to arrest the said accused and to bring him before (state court, judge or justice) \_\_\_\_\_, to be dealt with according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_, at \_\_\_\_\_.

( S E A L )

.....  
Judge, Clerk of the Court,

\* Initial applicable recital.

\*\*For any case not covered by recitals 1 to 9, insert recital in the words of the statute authorizing the warrant.



## Notes

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## FORM 8

### Warrant of Remand

This form shall be used when an accused has been remanded in custody by the judge presiding at the trial. The form has been adapted from Form 14 of the Criminal Code.

## COURT

CANADA,  
Province of Ontario,  
County (or District) of

BEFORE

the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge

REGINA

vs.

....., Accused.

TO THE PEACE OFFICERS IN THE ..... OF .....  
City or Town

AND THE SAID COUNTY (or DISTRICT):

YOU ARE HEREBY COMMANDED forthwith to convey to the  
prison at ..... the above-named accused who was this day  
City or Town

charged and remanded as in the following schedule set forth:

PERSON CHARGED	OFFENCE	REMANDED TO

AND YOU, THE KEEPER OF THE SAID PRISON, ARE HEREBY  
COMMANDED to receive the said accused into your custody in  
the prison and keep him safely until the day when his remand expires  
and then to have him before the Honourable Mr. (or Madam) Justice  
(or His (or Her) Honour Judge) ..... at ..... at the hour  
Location of Court

of ..... o'clock in the ..... noon of the said day, there to answer to  
the charge and to be dealt with according to law, unless you are  
otherwise ordered before that time.

DATED at ..... this ..... day of ..... 19 .....  
City or Town

( S E A L )

.....  
Clerk of the Court  
at .....

## Notes

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FORM 9

Order to Bring Accused Before  
Remand Expires

This form shall be used when the accused has been remanded to a specific time and date and then is required to appear before the Court prior to such time and date. The form has been adapted from Form 26 of the Criminal Code.

COURT

CANADA,  
Province of Ontario,  
County (or District) of  
.....

BEFORE { the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge  
.....

REGINA  
vs.

....., Accused.

TO THE KEEPER OF THE PRISON AT .....  
City or Town

WHEREAS by warrant dated the ..... day of ..... 19 ....  
the above-named accused was committed to your custody and you  
were required safely to keep him until the ..... day of .....  
19....., and then to have him before the Honourable Mr. Justice (or  
His Honour Judge) ..... at ..... at the hour of .....  
Location of Court

o'clock in the ..... noon of the said day, there to answer to the  
charge and to be dealt with according to law unless you should be  
ordered otherwise before that time.

Now, therefore, YOU ARE HEREBY ORDERED AND DIRECTED  
to have the accused before the Honourable Mr. (or Madam) Justice  
(or His (or Her) Honour Judge) ..... at ..... at the hour  
Location of Court

of ..... o'clock in the ..... noon of the ..... day of ..... 19 ....  
to answer to the charge against him and to be dealt with according  
to law.

DATED at ..... this ..... day of ..... 19 .....  
City or Town

( S E A L )

.....  
Clerk of the Court  
at .....



## Notes

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## Recognizance

’ }  
.

3. Whereas the said \_\_\_\_\_, hereinafter called the appellant, is an appellant against his conviction (or against his sentence or against an order or by way of stated case) in respect of the following matter (set out offence, subject matter of order or question of law) [752; 763; 764; 766]:

## Notes

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Now, therefore, the condition of this recognizance is that if the appellant appears personally at the sittings of the appeal court at which the appeal is to be heard;

And further, if the appellant (**insert in Schedule of Conditions any additional conditions that are directed**),

the said recognizance is void, otherwise it stands in full force and effect.

4. Whereas the said \_\_\_\_\_, hereinafter called the appellant, is an appellant against an order of dismissal (**or against sentence**) in respect of the following charge (**set out the name of the defendant and the offence, subject matter of order or question of law**) [752.1; 763; 764; 766]:

Now, therefore, the condition of this recognizance is that if the appellant appears personally or by counsel at the sittings of the appeal court at which the appeal is to be heard the said recognizance is void, otherwise it stands in full force and effect.

5. Whereas the said \_\_\_\_\_, hereinafter called the accused, was committed for trial on a charge that (**set out the offence in respect of which the accused has been charged**);

And whereas A.B. appeared as a witness on the preliminary inquiry into the said charge [477; 634; 635];

Now, therefore, the condition of this recognizance is that if the said A.B. appears at the time and place fixed for the trial of the accused to give evidence upon the indictment that is found against the accused, the said recognizance is void, otherwise it stands in full force and effect.

6. The condition of the above written recognizance is that if A.B. keeps the peace and is of good behaviour for the term of \_\_\_\_\_ commencing on \_\_\_\_\_, the said recognizance is void, otherwise it stands in full force and effect [745].

#### **Schedule of Conditions**

(a) reports at (**state times**) to (**name of peace officer or other person designated**),

(b) remains within (**designated territorial jurisdiction**),

(c) notifies (**name of peace officer or other person designated**) of any change in his address, employment or occupation,

(d) abstains from communicating with (**name of witness or other person**) except in accordance with the following conditions. (**as the justice or judge specifies**),

(e) deposits his passport (**as the justice or judge directs**), and

(f) (**any other reasonable conditions**).



## Notes

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**FORM 11****Notice of Hearing — Forfeiture of  
Recognizance**

This form shall be used when a recognizance has been endorsed by the clerk of the court pursuant to section 704 of the Criminal Code and, pursuant to section 705 thereof, the judge has fixed a time and place for the hearing of an application for the forfeiture of the recognizance.

**COURT**

CANADA,  
Province of Ontario,  
County (or District) of  
.....

BEFORE { the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge  
.....

REGINA

vs.

....., Accused.

TO: .....

TAKE NOTICE that the recognizance in the amount of ..... dollars, filed herein by you, has been certified to be in default and by order of the Honourable Mr. (or Madam) Justice (or His (or Her) Honour Judge) ....., made pursuant to section 677 of the Criminal Code, the application to forfeit the above recognizance will be heard by His Lordship (or Her Ladyship) (or His (or Her) Honour) in ..... at the ..... of ..... on ..... day the ..... day of ..... 19..... at the hour of ..... o'clock in the ..... noon or as soon thereafter as may be convenient.

YOU ARE HEREBY REQUIRED to appear at the time and place fixed to show cause why the said recognizance should not be forfeited.

DATED at ..... this ..... day of ..... 19.....  
City or Town

.....  
Clerk of the Court  
at .....

## Notes

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**FORM 12****Order for Forfeiture of Recognizance**

This form shall be used when a judge has made an order that a recognizance be forfeited pursuant to section 705 of the Criminal Code.

**COURT**

BEFORE { the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge } ..... day, the ..... day of  
..... 19.....

REGINA

vs.

....., Accused

BE IT REMEMBERED that on the ..... day of ..... 19.....  
at ..... did not appear as required  
**City or Town** **As the case may be**

by his recognizance and that by reason thereof the ends of justice  
have been delayed.

1. THIS COURT DOTH ORDER that the recognizance in the amount  
of ..... dollars in the Queen against .....

**Accused**

be and the same is hereby forfeited.

2. AND THIS COURT DOTH FURTHER ORDER that the amount  
so forfeited be paid to .....

**Municipality, Province, or as the case may be**

.....  
Clerk of the Court

at .....



## Notes

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**FORM 13****Recognizance for Suspended Sentence**

This form has been adapted from Form 28 of the Criminal Code and shall be issued pursuant to section 663 thereof.

**COURT**

CANADA,  
Province of Ontario,  
County (or District) of  
.....

**BEFORE**

{ the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge  
.....

**REGINA****vs.**

....., Accused

BE IT REMEMBERED that on this day the persons named in the following schedule personally came before me and severally acknowledged themselves to owe to Her Majesty the Queen the several amounts set opposite their respective names, namely,

NAME	ADDRESS	OCCUPATION	AMOUNT
.....			
<b>Accused</b>			
.....			
<b>Surety</b>			

to be made and levied of their several goods and chattels, lands and tenements, respectively, to the use of Her Majesty the Queen, if the said accused fails in the conditions hereunder written.

TAKEN AND ACKNOWLEDGED before me on the ..... day  
of ..... 19..... at .....

**City or Town****Judge**

WHEREAS the said accused appeared before the Honourable Mr. (or Madam) Justice (or His (or Her) Honour Judge) ..... on the ..... day of ..... 19 .., and was convicted of the offence of ..... contrary to the Criminal Code, and the Court suspended passing of sentence and directed that he be released upon entering a Recognizance with or without sureties;

## Notes

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NOW, THEREFORE, the condition of the above written Recognizance is that if the said accused appears and receives judgment when called upon during the term of ..... commencing on the ..... day of ..... 19....., and during that term keeps the peace and is of good behaviour and enters this Recognizance of his own free will, and:

1. Will report at least once each month to a Probation Officer for the Province of Ontario, and in addition thereto as often as he may from time to time be required to report;
2. Will not leave the County within which he resides unless holding the written permission of the Court;
3. Will notify the Probation Officer immediately of any change or contemplated change of address;
4. Will notify the Probation Officer immediately of any change or contemplated change of employment, or of any temporary or permanent loss of employment;
5. Will provide for the support of his wife and children and other dependent or dependents for which he is liable, if any;
6. Will not be away from his place of residence between the hours of ..... p.m. and 5:00 a.m. unless holding the written permission of the Probation Officer;
7. Will make restitution and reparation to the person aggrieved or injured by the offence for which he was convicted, in the sum of \$ ..... for the actual damage or loss thereby caused, within ..... months from this date as per the following schedule:

Name and Address of Recipient	Schedule of Payment to Recipient
.....	\$..... per .....
.....	\$..... per .....
.....	\$..... per .....

8. Will not enter the premises of
- 9.
- 10.

the said Recognizance is void, otherwise it stands in full force and virtue.

.....  
**Surety**

.....  
**Accused**

NOTE: Where application is made to change the conditions of this Recognizance an appropriate endorsement shall be made by the judge on this form.



## Notes

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FORM 14

Recognizance to Keep the Peace

This form has been adapted from Form 28 of the Criminal Code and shall be issued pursuant to section 745 thereof. It shall be prepared in one copy only which, after completion, shall be retained with the indictment.

COURT

CANADA,  
Province of Ontario,  
County (or District) of  
.....

}

BEFORE

{  
the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge  
.....

REGINA  
vs.

....., Accused

BE IT REMEMBERED that on this day ....., hereinafter called the accused, and ....., hereinafter called the surety (if ordered) personally came before me and acknowledged himself (or themselves) to owe to Her Majesty the Queen the sum of ..... dollars to be made and levied of his (or their) goods and chattels, lands and tenements, to the use of Her Majesty the Queen, if the said accused fails in the conditions hereunder written.

TAKEN AND ACKNOWLEDGED before me on the ..... day of ..... 19..... at .....  
City or Town

.....  
Judge

NOW THEREFORE, the condition of the above written recognizance is that if the within bounden accused keeps the peace and is of good behaviour for the term of ..... months now next ensuing then the said recognizance is void, otherwise it stands in full force and virtue.

.....  
Surety (if ordered)

.....  
Accused

## Notes

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FORM 15

Undertaking Given to a Justice or a Judge

Canada  
Province of Ontario  
.....  
(County, District, etc.)  
.....

}

I, .....  
of .....  
understand that I have been charged that  
(set out substance of offence)

In order that I may be released from custody, I undertake to attend court on ..... day, the ..... day of ..... 19....., in the Courtroom ..... at ..... and to attend thereafter as required by the court in order to be dealt with according to law or

(where date and place of appearance before court are not known at the time undertaking is given) to attend at the time and place fixed by the court and thereafter as required by the court in order to be dealt with according to law.  
(and where applicable)

I also undertake to (insert any conditions that are directed):

- (a) report at ..... to .....  
(state times) (name of peace officer or other person designated)
- (b) remain within .....  
(designated territorial jurisdiction)
- (c) notify ..... of any change in my address, employment or occupation,  
(name of peace officer or other person designated)
- (b) abstain from communications with ..... except in accordance with  
(name of witness or other person)  
the following conditions: .....  
(as the justice or judge specifies)
- (e) deposit my passport ..... , and  
(as the justice or judge directs)
- (f) .....  
(any other reasonable conditions)

I understand that failure without lawful excuse to attend court in accordance with this undertaking is an offence under subsection 133(2) of the **Criminal Code**.

Subsections 133(2) and (3) of the **Criminal Code** state as follows:

- “(2) Every one who, being at large on his undertaking or recognizance given to or entered into before a justice or a judge, fails, without lawful excuse, the proof of which lies upon him, to attend court in accordance therewith or to surrender himself in accordance with an order of the judge, as the case may be, is guilty of
- (a) an indictable offence and is liable to imprisonment for two years, or (b) an offence punishable on summary conviction.
- (3) Every one who, being at large on his undertaking or recognizance given to or entered into before a justice or a judge and being bound to comply with a condition of that undertaking or recognizance directed by a justice or a judge, fails, without lawful excuse, the proof of which lies upon him, to comply with that condition, is guilty of
- (a) an indictable offence and is liable to imprisonment for two years, or (b) an offence punishable on summary conviction.”

DATED this ..... day of ..... 19.....,  
at the ..... of .....  
.....

}

(Signature of Accused)  
.....  
Judge  
.....  
(County, District, etc. or Province)



## Notes

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FORM 16

Order and Warrant Remanding Accused  
to Custody for Observation

Canada  
Province of Ontario  
  
.....  
(County, District, etc.)  
  
.....

}

To the Peace Officers in the .....  
of ..... and in the Province of Ontario,  
and to the Superintendent and the authorities of the .....  
  
(name of psychiatric facility: e.g., Clarke Institute of Psychiatry,  
Ottawa General Hospital, etc.)  
  
a psychiatric facility so designated by the Regulation made  
under The Mental Health Act, R.S.O. 1970.

WHEREAS .....  
of ..... hereinafter called the Accused,  
is charged that he, on or about the ..... day of ..... 19.....,  
at the ..... of ..... in the said .....  
  
(County, District, etc.)

unlawfully did  
contrary to the Criminal Code,  
AND WHEREAS the Court is of the opinion,

Place  
mark in  
appropriate  
box

☐ without having heard the evidence of a duly qualified medical  
practitioner,  
  
☐ supported by the evidence of a duly qualified medical  
practitioner

that there is reason to believe that the said Accused may be mentally ill,

IT IS ORDERED that the said Accused be and he is hereby remanded to the  
custody of the Superintendent and the authorities of the said psychiatric facility for  
observation for a period not exceeding ..... days from the date hereof,  
(30 or 60)

that is, until the ..... day of ..... 19....., or for such lesser  
period as may in the opinion of the said Superintendent or authorities be sufficient  
for the purpose of such observation.

AND YOU THE SAID PEACE OFFICERS are hereby commanded, in Her  
Majesty's name, to take the said Accused and convey him safely to the said  
psychiatric facility and deliver him to the Superintendent or the authorities thereof.

AND YOU THE SAID SUPERINTENDENT and the authorities of the said psy-  
chiatric facility are hereby authorized to admit the said Accused to the said  
psychiatric facility and to keep him in custody for the purpose of such observation  
for the said period or for such lesser period as aforesaid.

And for so doing, this is a sufficient warrant.

DATED this ..... day of ..... 19 ....., at the .....  
of .....

.....  
Judge

## Notes

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**FORM 17****Warrant of Committal**

CANADA,  
Province of Ontario,  
County (or District) of  
.....

}

the Honourable  
Mr. (or Madam) Justice  
His (or Her) Honour Judge  
.....

TO the peace officers County (or District) of  
..... and to the keeper of the ..... at .....

WHEREAS ....., hereinafter called  
the accused, was this day convicted upon a charge that .....  
.....  
and it was adjudged that the accused for his offence

YOU ARE HEREBY COMMANDED, in Her  
Majesty's name, to take the accused and convey him safely to the  
..... at ..... and there deliver him to the keeper  
thereof, together with the following precept:

YOU, the said keeper, are hereby commanded to  
receive the accused into custody in the said prison and imprison  
him there

and for so doing this is a sufficient warrant.

DATED this ..... day of ..... A.D. 19 ....., at  
.....

Clerk of the Court



## Notes

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## **Security of the Courtroom**

It is the responsibility of the Sheriff for the maintenance of order in the Courtroom.

Section 16 of The Sheriffs Act, R.S.O. 1970, provides as follows:

“The sheriff shall give his attendance upon the judges for the maintenance of good order in Her Majesty’s courts, and for the doing and executing of all other things that appertain to the office of sheriff in such case.”

It is of the utmost importance that court constables and clerks be constantly reminded of their duties. With regard to security, they should closely scrutinize all persons entering the courtroom. Members of the public must not be permitted to bring any parcels, packages or similar articles into the courtroom. During the course of a trial the attention of the constables must be directed to the body of the courtroom to detect any movement or matter of a suspicious or threatening nature; this is especially important in trials relating to criminal and family matters. Any matter of a suspicious or objectionable nature must be immediately reported to the sheriff or his deputy.

## Notes

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## Notes

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